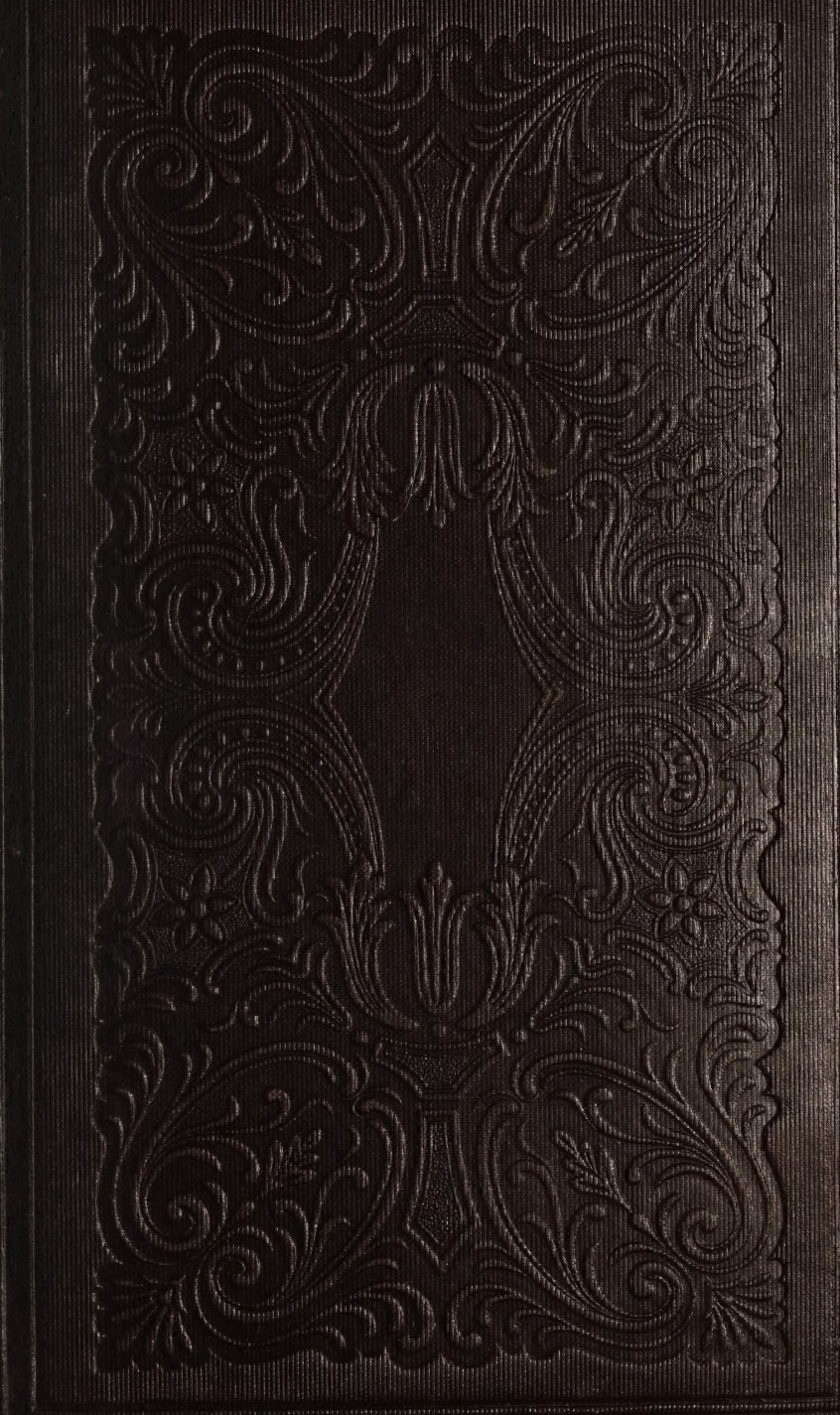

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THE

WORKS

OF

THE REV. SYDNEY SMITH.

IN THREE VOLUMES.

VOL. II.

PHILADELPHIA:
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CONTENTS

OF

THE SECOND VOLUME.

ARTICLES ORIGINALLY PUBLISHED IN THE "EDINBURGH REVIEW."

	Page
Persecuting Bishops	5
Botany Bay	24
Game Laws	46
Cruel Treatment of untried Prisoners	59
America	77
Bentham on Fallacies	94
Waterton	118
Man Traps and Spring Guns	136
Hamilton's Method of teaching Languages	149
Counsel for Prisoners	173
Catholics	196
Neckar's Last Views	221
Catteau, Tableau des Etats Danois	238
Thoughts on the Residence of the Clergy	262
Travels from Palestine	266
Letter on the Curates' Salary Bill	271
Proceedings of the Society for the Suppression of Vice	282
Characters of Fox	294
Observations on the Historical Work of the Right Hon. Charles James Fox	302
Disturbances at Madras	324
Bishop of Lincoln's Charge	340

	Page
Madame d'Epinay - - - - - -	351
Poor-Laws - - - - - - -	361
Anastasius - - - - - - -	380
Scarlett's Poor-Bill - - - - - -	391

WORKS

OF THE

REV. SYDNEY SMITH.

PERSECUTING BISHOPS. (EDINBURGH REVIEW, 1822.)

1. *An Appeal to the Legislature and Public; or, the Legality of the Eighty-seven Questions proposed by Dr. Herbert Marsh, the Bishop of Peterborough, to Candidates for Holy Orders, and for Licenses, within that Diocese, considered.* 2d Edition. London, Seely, 1821.

2. *A Speech, delivered in the House of Lords, on Friday, June 7, 1822, by Herbert, Lord Bishop of Peterborough, on the Presentation of a Petition against his Examination Questions; with Explanatory Notes, a Supplement, and a Copy of the Questions.* London, Rivington, 1822.

3. *The Wrongs of the Clergy of the Diocese of Peterborough stated and illustrated.* By the Rev. T. S. Grimshawe, M.A., Rector of Burton, Northamptonshire; and Vicar of Biddenham, Bedfordshire. London, Seely, 1822.

4. *Episcopal Innovation: or, the Test of Modern Orthodoxy, in Eighty-seven Questions, imposed, as Articles of Faith, upon Candidates for Licenses and for Holy Orders, in the Diocese of Peterborough; with a distinct Answer to each Question, and General Reflections relative to their Illegal Structure and Pernicious Tendency.* London, Seely, 1820.

5. *Official Correspondence between the Right Reverend Herbert, Lord Bishop of Peterborough, and the Rev. John Green, respecting his Nomination to the Curacy of Blatherwycke, in the Diocese of Peterborough, and County of Northampton: Also, between His Grace Charles, Lord Archbishop of Canterbury, and the Rev. Henry William Nevile, M.A., Rector of Blatherwycke, and of Cottesmore in the County of Rutland.* 1821.

It is a great point in any question to clear away encumbrances, and to make a naked circle about the object in dispute, so that there may be a clear view of it on every side. In pursuance of this disencumbering process, we shall first acquit the bishop of all wrong intentions. He has a very bad opinion of the practical effects of high Calvinistic doctrines upon the common people; and he thinks it his duty to exclude those clergymen who profess them from his diocese. There is no moral wrong in this. He has accordingly devised no fewer than *eighty-seven* interrogatories, by which he thinks he can detect the smallest taint of Calvinism that may lurk in the creed of the candidate; and in this also, whatever we may think of his reasoning, we suppose his purpose to be blameless. He believes, finally, that he has legally the power so to interrogate and exclude; and in this perhaps he is not mistaken. His intentions, then, are good, and his conduct, perhaps, not amenable to the law. All this we admit in his favour: but against him we must maintain, that his conduct upon the points in dispute has been singularly injudicious, extremely harsh, and, in its effects (though not in its intentions), very oppressive and vexatious to the clergy.

We have no sort of intention to avail ourselves of an anonymous publication to say unkind, uncivil, or disrespectful things to a man of rank, learning, and character—we hope to be guilty of no such impropriety; but we cannot believe we are doing wrong in ranging ourselves on the weaker side, in the cause of propriety and justice. The mitre protects its wearer from indignity; but it does not secure impunity.

It is a strong presumption that a man is wrong, when all his friends, whose habits naturally lead them to coincide with him, think him wrong. If a man were to indulge in taking medicine till the apothecary, the druggist, and the physician, all called upon him to abandon his philo-cathartic propensities—if he were to gratify his convivial habits till the landlord demurred and the waiter shook his head—we should naturally imagine that advice so wholly disinterested was not given before it was wanted, and that it merited some little attention and respect. Now, though the Bench of Bishops certainly love power, and love the church, as well as the Bishop of Peterborough, yet not one defended him—not one rose to say, 'I have done, or I would do the same thing.' It was impossible to be present at the last debate on this question, without

perceiving that his lordship stood alone—and this in a very gregarious profession, that habitually combines and butts against an opponent with a very extended front. If a lawyer is wounded, the rest of the profession pursue him, and put him to death. If a churchman is hurt, the others gather round for his protection, stamp with their feet, push with their horns, and demolish the dissenter who did the mischief.

The bishop has at least done a very unusual thing in his Eighty-seven Questions. The two archbishops, and we believe every other bishop, and all the Irish hierarchy, admit curates into their dioceses without any such precautions. The necessity of such severe and scrupulous inquisition, in short, has been apparent to nobody but the Bishop of Peterborough; and the authorities by which he seeks to justify it are any thing but satisfactory. His lordship states, that forty years ago, he was himself examined by written interrogatories, and that he is not the only bishop who has done it; but he mentions no names; and it was hardly worth while to state such extremely slight precedents for so strong a deviation from the common practice of the church.

The bishop who rejects a curate upon the Eighty-seven Questions is necessarily and inevitably opposed to the bishop who ordained him. The Bishop of Gloucester ordains a young man of twenty-three years of age, not thinking it necessary to put to him these interrogatories, or putting them perhaps, and approving of answers diametrically opposite to those that are required by the Bishop of Peterborough. The young clergyman then comes to the last-mentioned bishop, and the bishop, after *putting him to the question*, says, 'You are unfit for a clergyman,'—though, ten days before, the Bishop of Gloucester has made him one! It is bad enough for ladies to pull caps, but still worse for bishops to pull mitres. Nothing can be more mischievous or indecent than such scenes; and no man of common prudence, or knowledge of the world, but must see that they ought immediately to be put a stop to. If a man is a captain in the army in one part of England, he is a captain in all. The general who commands north of the Tweed does not say, You shall never appear in my district, or exercise the functions of an officer, if you do not answer eighty-seven questions on the art of war, according to my notions. The same officer who commands a ship of the line in the Mediterranean, is considered as equal to the same office in

the North Seas. The sixth commandment is suspended, by one medical diploma, from the north of England to the south. But, by this new system of interrogation, a man may be admitted into orders at Barnet, rejected at Stevenage, re-admitted at Brogden, kicked out as a Calvinist at Witham Common, and hailed as an ardent Arminian on his arrival at York.

It matters nothing to say that sacred things must not be compared with profane. In their importance, we allow, they cannot; but in their order and discipline they may be so far compared as to say, that the discrepancy and contention which would be disgraceful and pernicious in worldly affairs, should, in common prudence, be avoided in the affairs of religion. Mr. Greenough has made a map of England, according to its geological varieties;—blue for the chalk, green for the clay, red for the sand, and so forth. Under this system of Bishop Marsh, we must petition for the assistance of the geologist in the fabrication of an ecclesiastical map. All the Arminian districts must be purple. Green for one theological extremity —sky-blue for another—as many colours as there are bishops —as many shades of these colours as there are archdeacons —a tailor's pattern card—the picture of vanity, fashion, and caprice!

The bishop seems surprised at the resistance he meets with; and yet, to what purpose has he read ecclesiastical history, if he expects to meet with any thing but the most determined opposition? Does he think that every sturdy supralapsarian bullock whom he tries to sacrifice to the genius of orthodoxy, will not kick, and push, and toss; that he will not, if he *can*, shake the axe from his neck, and hurl his mitred butcher into the air? His lordship has undertaken a task of which he little knows the labour or the end. We know these men fully as well as the bishop; he has not a chance of success against them. If one motion in Parliament will not do, they will have twenty. They will ravage, roar, and rush, till the very chaplains, and the masters and Misses Peterborough request his lordship to desist. He is raising up a storm in the English church, of which he has not the slightest conception; and which will end, as it ought to end, in his lordship's disgrace and defeat.

The longer we live, the more we are convinced of the justice of the old saying, that an *ounce of mother wit is worth a pound of clergy;* that discretion, gentle manners,

common sense, and good nature, are, in men of high ecclesiastical station, of far greater importance than the greatest skill in discriminating between sublapsarian and supralapsarian doctrines. Bishop Marsh should remember, that all men wearing the mitre work by character, as well as doctrine; that a tender regard to men's rights and feelings, a desire to avoid sacred squabbles, a fondness for quiet, and an ardent wish to make every body happy, would be of far more value to the Church of England than all his learning and vigilance of inquisition. The Irish tithes will probably fall next session of Parliament; the common people are regularly receding from the Church of England—baptizing, burying, and confirming for themselves. Under such circumstances, what would the worst enemy of the English church require?—a bitter, bustling, theological bishop, accused by his clergy of tyranny and oppression—the cause of daily petitions and daily debates in the House of Commons—the idoneous vehicle of abuse against the Establishment—a stalking horse to bad men for the introduction of revolutionary opinions, mischievous ridicule, and irreligious feelings. Such will be the advantages which Bishop Marsh will secure for the English Establishment in the ensuing session. It is inconceivable how such a prelate shakes all the upper works of the church, and ripens it for dissolution and decay. Six such bishops, multiplied by eighty-seven, and working with five hundred and twenty-two questions, would fetch every thing to the ground in less than six months. But what if it pleased Divine Providence to afflict every prelate with the spirit of putting eighty-seven queries, and the two archbishops with the spirit of putting twice as many, and the Bishop of Sodor and Man with the spirit of putting only forty-three queries?—there would then be a grand total of two thousand three hundred and thirty-five interrogations flying about the English church; and sorely vexed would the land be with Question and Answer.

We will suppose this learned prelate, without meanness or undue regard to his worldly interests, to feel that fair desire of rising in his profession, which any man, in any profession, may feel without disgrace. Does he forget that his character in the ministerial circles will soon become that of a violent impracticable man—whom it is impossible to place in the highest situations—who has been trusted with too much

already, and must be trusted with no more? Ministers have something else to do with their time, and with the time of Parliament, than to waste them in debating squabbles between bishops and their clergy. They naturally wish, and, on the whole, reasonably expect, that every thing should go on silently and quietly in the church. They have no objection to a learned bishop; but they deprecate one atom more of learning than is compatible with moderation, good sense, and the soundest discretion. It must be the grossest ignorance of the world to suppose, that the cabinet has any pleasure in watching Calvinists.

The bishop not only puts the questions, but he actually assigns the limits within which they are to be answered. Spaces are left in the paper of interrogations, to which limits the answer is to be confined;—two inches to original sin; an inch and a half to justification; three quarters to predestination; and to free will only a quarter of an inch. But if his lordship gives them an inch they will take an ell. His lordship is himself a theological writer, and by no means remarkable for his conciseness. To deny space to his brother theologians, who are writing on the most difficult subjects, not from choice, but necessity; not for fame, but for bread; and to award rejection as the penalty of prolixity, does appear to us no slight deviation from Christian gentleness. The tyranny of calling for such short answers is very strikingly pointed out in a letter from Mr. Thurtell to the Bishop of Peterborough; the style of which pleads, we think, very powerfully in favour of the writer.

'*Beccles, Suffolk, August 28th,* 1821.

'My Lord,

'I ought, in the first place, to apologize for delaying so long to answer your lordship's letter: but the difficulty in which I was involved, by receiving another copy of your lordship's Questions, with positive directions to give short answers, may be sufficient to account for that delay.

'It is my sincere desire to meet your lordship's wishes, and to obey your lordship's directions in every particular; and I would therefore immediately have returned answers, without any "restrictions or modifications," to the Questions which your lordship has thought fit to send me, if, in so doing, I could have discharged the obligations of my conscience, by showing what my opinions really are. But it appears to me, that the Questions proposed to me by your lordship are so constructed as to elicit only two sets of opinions; and that by answering them in so concise a manner, I should

be representing myself to your lordship as one who believes in either of two particular creeds, to neither of which I do *really* subscribe. For instance, to answer Question I. chap. ii. in the manner your lordship desires, I am reduced to the alternative of declaring, either that "mankind are a mass of *mere* corruption," which expresses more than I intend, or of leaving room for the inference, that they are only *partially* corrupt, which is opposed to the plainest declarations of the Homilies; such as these, "Man is *altogether* spotted and defiled" (Hom. on Nat.), "without a *spark* of goodness in him" (Serm. on Mis. of Man, &c.).

'Again, by answering the Questions comprised in the chapter on "Free Will," according to your lordship's directions, I am compelled to acknowledge either that man has such a share in the work of his own salvation as to exclude the *sole* agency of God, or that he has no share whatever; when the Homilies for Rogation Week and Whitsunday positively declare, that God is the "only Worker," or, in other words, *sole* Agent; and at the same time assign to man a certain share in the work of his own salvation. In short, I could, with your lordship's permission, point out twenty Questions, involving doctrines of the utmost importance, which I am unable to answer, so as to convey my real sentiments, without more room for explanation than the printed sheet affords.

'In this view of the subject, therefore, and in the most deliberate exercise of my judgment, I deem it indispensable to my acting with that candour and truth with which it is my wish and duty to act, and with which I cannot but believe your lordship desires I should act, to state my opinions in that language which expresses them most fully, plainly and unreservedly. This I have endeavoured to do in the answers now in the possession of your lordship. If any further explanation be required, I am most willing to give it, even to a minuteness of opinion beyond what the Articles require. At the same time, I would humbly and respectfully appeal to your lordship's candour, *whether it is not hard to demand my decided opinion upon points which have been the themes of volumes; upon which the most pious and learned men of the church have conscientiously differed; and upon which the Articles in the judgment of Bishop Burnet, have pronounced no definite sentence.* To those Articles, my lord, I have already subscribed; and I am willing again to subscribe to every one of them, "in its literal and grammatical sense," according to his majesty's declaration prefixed to them.

'I hope, therefore, in consideration of the above statement, that your lordship will not compel me, by the conciseness of my answers, to assent to the doctrines which I do not believe, or to expose myself to inferences which do not fairly and legitimately follow from my opinions.

'I am, my Lord, &c. &c.'

We are not much acquainted with the practices of courts of justice; but, if we remember right, when a man is going to be hanged, the judge lets him make his defence in his own way,

without complaining of its length. We should think a Christian bishop might be equally indulgent to a man who is going to be ruined. The answers are required to be clear, concise, and correct—short, plain, and positive. In other words, a poor curate, extremely agitated at the idea of losing his livelihood, is required to write with brevity and perspicuity on the following subjects:—Redemption by Jesus Christ—Original Sin—Free Will—Justification—Justification in reference to its causes—Justification in reference to the time when it takes place—Everlasting Salvation—Predestination—Regeneration on the New Birth—Renovation, and the Holy Trinity. As a specimen of these questions, the answer to which is required to be so brief and clear, we shall insert the following quotation:—

'*Section II.—Of Justification, in reference to its cause.*

'1. Does not the eleventh Article declare, that we are "justified by Faith *only?*"

'2. Does not the expression "Faith only" derive additional strength from the negative expression in the same Article "and *not* for our own works?"

'3. Does not therefore the eleventh Article *exclude* good works from all share in the office of Justifying? Or can we so construe the term "Faith" in that Article, as to make it *include* good works?

'4. Do not the twelfth and thirteenth Articles *further* exclude them, the one by asserting that good works *follow after* Justification, the other by maintaining that they *cannot precede* it?

'5. Can that, which never precedes an effect, be reckoned among *the causes* of that effect?

'6. Can we then, consistently with our Articles, reckon the performance of good works among the *causes* of Justification, whatever qualifying epithet be used with the term *cause?*'

We entirely deny that the Calvinistical clergy are bad members of their profession. We maintain that as many instances of good, serious, and pious men—of persons zealously interesting themselves in the temporal and spiritual welfare of their parishioners are to be found among them, as among the clergy who put an opposite interpretation on the Articles. The Articles of Religion are older than Arminianism, *eo nomine.* The early reformers leant to Calvinism; and would, to a man, have answered the bishop's questions in a way which would have induced him to refuse them ordination and curacies; and those who drew up the Thirty-nine Articles, if they had not

prudently avoided all precise interpretation of their creed on free-will, necessity, absolute decrees, original sin, reprobation and election, would have, in all probability, given an interpretation of them like that which the bishop considers as a disqualification for holy orders. Laud's Lambeth Articles were illegal, mischievous, and are generally condemned. The Irish clergy in 1641 drew up one hundred and four articles as the creed of their church; and these are Calvinistic, and not Arminian. They were approved and signed by Usher, and never abjured by him; though dropt as a test or qualification. Usher was promoted (even in the days of Arminianism) to bishoprics and archbishoprics—so little did a Calvinistic interpretation of the Articles in a man's own breast, or even an avowal of Calvinism, beyond what was required by the Articles, operate even then as a disqualification for the cure of souls, or of any other office in the church. Throughout Charles II. and William III.'s time, the best men and greatest names of the church not only allowed latitude in interpreting the Articles, but thought it would be wise to diminish their number, and render them more lax than they are; and be it observed, that these latitudinarians leant to Arminianism rather than to high Calvinism; and thought, consequently, that the Articles, if objectionable at all, were exposed to the censure of being 'too Calvinistic,' rather than too Arminian. How preposterons, therefore, to twist them, and the subscription to them required by law, by the machinery of a long string of explanatory questions, into a barrier against Calvinists, and to give the Arminians a monopoly in the church!

Archbishop Wake, in 1716, after consulting all the bishops then attending Parliament, thought it incumbent on him '*to employ the authority which the ecclesiastical laws then in force, and the custom and laws of the realm vested in him*,' and taking care that '*no unworthy person might hereafter be admitted into the sacred ministry of the church;*' and he drew up twelve recommendations to the bishops of England, in which he earnestly exhorts them not to ordain persons of bad conduct or character, or incompetent learning; but he does not require from the candidates for holy orders or preferment, any explanation whatever of the Articles which they had signed.

The correspondence of the same eminent prelate with Professor Turretin in 1718, and with Mr. Le Clerc and the

pastors and professors of Geneva in 1719, printed in London, 1782, recommends union among Protestants, and the omission of controverted points in confessions of faith, as a means of obtaining that union; and a constant reference to the practice of the Church of England is made in elucidation of the charity and wisdom of such policy. Speaking of men who act upon a contrary principle he says, *O quantum potuit insana* φιλαντια!

These passages, we think, are conclusive evidence of the practice of the church till 1719. For Wake was not only at the time Archbishop of Canterbury, but both in his circular recommendations to the bishops of England, and in his correspondence with foreign churches, was acting in the capacity of metropolitan of the Anglican church. He, a man of prudence and learning, publicly boasts to Protestant Europe, that his church does *not* exact, and that he *de facto* has never avowed, and never will, his opinions on those very points upon which Bishop Marsh obliges every poor curate to be explicit, upon pain of expulsion from the church.

It is clear, then, the practice was, to extract subscription and nothing else, as the test of orthodoxy—to that Wake is an evidence. As far as he is authority on a point of opinion, it is his conviction that his practice was wholesome, wise, and intended to preserve peace in the church; that it would be wrong at least, if not illegal, to do otherwise; and that the observance of this forbearance is the only method of preventing schism. The Bishop of Peterborough, however, is of a different opinion; he is so thoroughly convinced of the pernicious effects of Calvinistic doctrines, that he does what no other bishop does, or ever did do, for their exclusion. This may be either wise or injudicious, but it is at least zealous and bold; it is to encounter rebuke, and opposition, from a sense of duty. It is impossible to deny this merit to his lordship. And we have no doubt, that, in pursuance of the same theological gallantry, he is preparing a set of interrogatories for those clergymen who are presented to benefices in his diocese. The patron will have his action of *Quare impedit*, it is true; and the judge and jury will decide whether the bishop has the right of interrogation at all; and whether Calvinistical answers to his interrogatories disqualify any man from holding preferment in the Church of England. If either of these points are given against the Bishop of Peter-

borough, he is in honour and conscience bound to give up his examination of curates. If Calvinistic ministers are, in the estimation of the bishops, so dangerous as curates, they are of course much more dangerous as rectors and vicars. He has as much right to examine one as the other. Why then does he pass over the greater danger, and guard against the less? Why does he not show his zeal when he would run some risk, and where the excluded person (if excluded unjustly) could appeal to the laws of his country? If his conduct is just and right, has he any thing to fear from that appeal? What should we say of a police officer who acted in all cases of petty larceny, where no opposition was made, and let off all persons guilty of felony who threatened to knock him down? If the bishop values his own character, he is bound to do less,—or to do more. God send his choice may be right! The law, as it stands at present, certainly affords very unequal protection to rector and to curate; but if the bishop will not act so as to improve the law, the law must be so changed as to improve the bishop; an action of *Quare impedit* must be given to the curate also—and then the fury of interrogation will be calmed.

We are aware that the Bishop of Peterborough, in his speech, disclaims the object of excluding the Calvinists by this system of interrogation. We shall take no other notice of his disavowal, than expressing our sincere regret that he ever made it; but the question is not at all altered by the intention of the interrogator. Whether he aims at the Calvinists only, or includes them with other heterodox respondents—the fact is, they *are* included in the proscription, and excluded from the church. The practical effect of the practice being, that men are driven out of the church who have as much right to exercise the duties of clergymen as the bishop himself. If heterodox opinions are the great objects of the bishop's apprehensions, he has his ecclesiastical courts, where regular process may bring the offender to punishment, and from whence there is an appeal to higher courts. This would be the fair thing to do. The curate and the bishop would be brought into the light of day, and subjected to the wholesome restraint of public opinion.

His lordship boasts that he has excluded only two curates. So the Emperor of Hayti boasted that he had only cut off two persons' heads for disagreeable behaviour at his table. In

spite of the paucity of the visitors executed, the example operated as a considerable impediment to conversation; and the intensity of the punishment was found to be a full compensation for its rarity. How many persons have been deprived of curacies which they might have enjoyed, but for the tenour of these interrogatories? How many respectable clergymen have been deprived of the assistance of curates connected with them by blood, friendship, or doctrine, and compelled to choose persons, for no other qualification than that they could pass through the eye of the bishop's needle? Violent measures are not to be judged of merely by the number of times they have been resorted to, but by the terror, misery, and restraint which the severity is likely to have produced.

We never met with any style so entirely clear of all redundant and vicious ornament, as that which the ecclesiastical Lord of Peterborough has adopted towards his clergy. It, in fact, may be all reduced to these few words—'Reverend Sir, I shall do what I please. Peterborough.'—Even in the House of Lords, he speaks what we must call very plain language. Among other things, he says, that the allegations of the petitions are *false*. Now, as every bishop is, besides his other qualities, a gentleman; and as the word *false* is used only by laymen, who mean to hazard their lives by the expression; and as it cannot be supposed that foul language is ever used because it can be used with personal impunity, his lordship must, therefore, be intended to mean not *false*, but *mistaken*—not a wilful deviation from truth, but an accidental and unintended departure from it.

His lordship talks of the drudgery of wading through ten pages of answers to his eighty-seven questions. Who has occasioned this drudgery, but the person who means to be so much more active, useful, and important, than all other bishops, by proposing questions which nobody has thought to be necessary but himself? But to be intolerably strict and harsh to a poor curate, who is trying to earn a morsel of hard bread, and then to complain of the drudgery of reading his answers, is much like knocking a man down with a bludgeon, and then abusing him for splashing you with his blood, and pestering you with his groans. It is quite monstrous, that a man who inflicts eighty-seven new questions in theology upon his fellow-creatures, should talk of the drudgery of reading their answers.

A curate—there is something which excites compassion in the very name of a curate!!! How any man of purple, palaces, and preferment, can let himself loose against this poor working man of God, we are at a loss to conceive,—a learned man in a hovel, with sermons and saucepans, lexicons and bacon, Hebrew books and ragged children—good and patient—a comforter and a preacher—the first and purest pauper in the hamlet, and yet showing, that, in the midst of his worldly misery, he has the heart of a gentleman, and the spirit of a Christian, and the kindness of a pastor; and this man, though he has exercised the duties of a clergyman for twenty years—though he has most ample testimonies of conduct from clergymen as respectable as any bishop—though an archbishop add his name to the list of witnesses, is not good enough for Bishop Marsh; but is pushed out in the street, with his wife and children, and his little furniture, to surrender his honour, his faith, his conscience, and his learning—or to starve!

An obvious objection to these innovations is, that there can be no end to them. If eighty-seven questions are assumed to be necessary by one bishop, eight hundred may be considered as the minimum of interrogation by another. When once the ancient faith marks of the church are lost sight of and despised, any misled theologian may launch out on the boundless sea of polemical vexation.

The Bishop of Peterborough is positive, that the Arminian interpretation of the articles is the right interpretation, and that Calvinists should be excluded from it; but the country gentlemen who are to hear these matters debated in the Lower House, are to remember, that other bishops have written upon these points before the Bishop of Peterborough, and have arrived at conclusions diametrically opposite. When curates are excluded because their answers are Calvinistical, a careless layman might imagine that this interpretation of the Articles had never been heard of before in the church—that it was a gross and palpable perversion of their sense, which had been scouted by all writers on church matters, from the day the Articles were promulgated, to this hour—that such an unheard of monster as a Calvinistical curate had never leapt over the pale before, and been detected browsing in the sacred pastures.

The following is the testimony of Bishop Sherlock:—

"'The church has left a latitude of sense to prevent schisms and breaches upon every different opinion. It is evident the Church of

England has so done in some articles, which are most liable to the hottest disputes; which yet are penned with that temper as to be willingly subscribed by men of different apprehensions in those matters." —SHERLOCK's *Defence of Stillingfleet's Unreasonableness of Separation.*'

Bishop Cleaver, describing the difficulties attending so great an undertaking as the formation of a national creed, observes:—

'"These difficulties, however, do not seem to have discouraged the great leaders in this work from forming a design as wise as it was liberal, that of framing a confession, which, in the enumeration and method of its several articles, should meet the approbation, and engage the consent, of the whole reformed world.

'"If upon trial, it was found that a comprehension so extensive could not be reduced to practice, still as large a comprehension as could be contrived, within the narrower limits of the kingdom, became, for the same reasons which first suggested the idea, at once an object of prudence and duty, in the formation and government of the English church."

'After dwelling on the means necessary to accomplish this object, the bishop proceeds to remark:—"Such evidently appears to have been the origin, and such the actual complexion of the confession comprised in the Articles of our church; *the true scope and design of which will not, I conceive, be correctly apprehended in any other view than that of one drawn up and adjusted with an intention to comprehend the assent of all, rather than to exclude that of any who concurred in the necessity of a reformation.*

'"The means of comprehension intended were, not any general ambiguity or equivocation of terms, *but a prudent forbearance in all parties not to insist on the full extent of their opinions in matters not essential or fundamental; and in all cases to wave, as much as possible, tenets which might divide, where they wish to unite.*"—Remarks on the Design and Formation of the Articles of the Church of England, by WILLIAM, Lord Bishop of Bangor, 1802.'—pp. 23—25.

We will finish with Bishop Horsley.

'It has been the fashion of late to talk about Arminianism as the system of the Church of England, and of Calvinism as something opposite to it, to which the church is hostile. That I may not be misunderstood in what I have stated, or may have occasion further to say upon this subject, I must here declare, that I use the words Arminianism and Calvinism in that restricted sense in which they are now generally taken, to denote the doctrinal part of each system, as unconnected with the principles either of Arminians or Calvinists upon church discipline and church government. This being premised, I assert, what I often have before asserted, and by God's grace I will persist in the assertion to my dying day, that so far is it from the truth that the Church of England is decidedly Arminian, and hostile to Calvinism, that the truth is this, *that upon the principal points in dispute*

between the Arminians and the Calvinists upon all the points of doctrine characteristic of the two sects, the Church of England maintains an absolute neutrality; her articles explicitly assert nothing but what is believed both by Arminians and by Calvinists. The Calvinists indeed hold some opinions relative to the same points, which the Church of England has not gone the length of asserting in her Articles; but neither has she gone the length of explicitly contradicting those opinions; insomuch that *there is nothing to hinder the Arminian and the highest supralapsarian Calvinist from walking together in the Church of England and Ireland as friends and brothers, if they both approve the discipline of the church, and both are willing to submit to it.* Her discipline has been approved; it has been submitted to; it has been in former times most ably and zealously defended by the highest supralapsarian Calvinists. Such was the great Usher; such was Whitgift; such were many more, burning and shining lights of our church in her early days (when first she shook off the Papal tyranny), long since gone to the resting place of the spirits of the just.—*Bishop* HORSLEY'S *Charges*, p. 216.'—pp. 25, 26.

So that these unhappy curates are turned out of their bread for an exposition of the Articles which such men as Sherlock, Cleaver, and Horsley think may be fairly given of their meaning. We do not quote their authority to show that the right interpretation is decided, but that it is doubtful—that there is a balance of authorities—that the opinion which Bishop Marsh has punished with poverty and degradation, has been considered to be legitimate, by men at least as wise and learned as himself. In fact, it is to us perfectly clear, that the Articles were originally framed to prevent the very practices which Bishop Marsh has used for their protection—they were purposely so worded, that Arminians and Calvinists could sign them without blame. They were intended to combine both these descriptions of Protestants, and were meant principally for a bulwark against the Catholics.

'Thus,' says Bishop Burnet, 'was the doctrine of the church cast into a short and plain form; in which they took care both to establish the positive articles of religion, and to cut off the errors formerly introduced in the time of popery, or of late broached by the Anabaptists and enthusiasts of Germany; *avoiding the niceties of schoolmen, or the peremptoriness of the writers of controversy; leaving in matters that are more justly controvertible, a liberty to divines to follow their private opinions, without thereby disturbing the peace of the church.*'—History of the Reformation, Book I. part ii. p. 168, folio edition.

The next authority is that of Fuller.

'In the convocation now sitting, wherein Alexander Nowel, Dean of St. Paul's, was prolocutor, the ninth-and-thirty Articles were com-

posed. For the main they agree with those set forth in the reign of King Edward the Sixth, though in some particulars allowing more liberty to dissenting judgments. For instance, in this King's Articles it is said, that it is to be believed that Christ went down to hell (to preach to the spirits there); which last clause is left out in these Articles, and men left to a latitude concerning the cause, time, and manner of his descent.

'Hence some have unjustly taxed the composers for too much favour extended in their large expressions, clean through the contexture of these Articles, which should have tied men's consciences up closer, in more strict and particularizing propositions, *which indeed proceeded from their commendable moderation.* Children's clothes ought to be made of the biggest, because afterwards their bodies will grow up to their garments. Thus the Articles of this English Protestant Church, in the infancy thereof, they thought good to draw up in general terms, foreseeing that posterity would grow up to fill the same: I mean these holy men did prudently prediscover, that differences in judgments would unavoidably happen in the church, *and were loath to unchurch any, and drive them off from an ecclesiastical communion, for such petty differences, which made them pen the Articles in comprehensive words, to take in all who, differing in the branches, meet in the root of the same religion.*

'Indeed most of them had formerly been sufferers themselves, and cannot be said, in compiling these Articles, (an acceptable service, no doubt,) to offer to God what cost them nothing, some having paid imprisonment, others exile, all losses in their estates, for this their experimental knowledge in religion, *which made them the more merciful and tender in stating those points,* seeing such who themselves have been most patient in bearing, will be most pitiful in burdening the consciences of others.'—See FULLER's *Church History,* book ix. p. 72, folio edit.

But this generous and pacific spirit gives no room for the display of zeal and theological learning. The gate of admission has been left too widely open. I may as well be without power at all, if I cannot force my opinions upon other people. What was purposely left indefinite, I must make definite and exclusive. Questions of contention and difference must be laid before the servants of the church, and nothing like neutrality in theological metaphysics allowed to the ministers of the Gospel. *I come not to bring peace,* &c.

The bishop, however, seems to be quite satisfied with himself, when he states, that he has a *right to do* what he has done—just as if a man's character with his fellow-creatures depended upon legal rights alone, and not upon a discreet exercise of those rights. A man may persevere in doing what he has a right to do, till the chancellor shuts him up in Bed-

lam, or till the mob pelt him as he passes. It must be presumed, that all men whom the law has invested with rights, nature has invested with common sense, to use those rights. For these reasons, children have no rights till they have gained common sense, and old men have no rights after they lose their common sense. All men are at all times accountable to their fellow-creatures for the discreet exercise of every right they possess.

Prelates are fond of talking of *my* see, *my* clergy, *my* diocese, as if these things belonged to them, as their pigs and dogs belonged to them. They forget that the clergy, the diocese, and the bishops themselves, all exist only for the public good; that the public are a third, and principal party in the whole concern. It is not simply the tormenting Bishop *versus* the tormented Curate, but the public against the system of tormenting; as tending to bring scandal upon religion and religious men. By the late alteration in the laws, the labourers in the vineyard are given up to the power of the inspectors of the vineyard. If he has the meanness and malice to do so, an inspector may worry and plague to death any labourer against whom he may have conceived an antipathy. As often as such cases are detected, we believe they will meet, in either House of Parliament, with the severest reprehension. The noblemen and gentlemen of England will never allow their parish clergy to be treated with cruelty, injustice, and caprice, by men who were parish clergymen themselves yesterday, and who were trusted with power for very different purposes.

The Bishop of Peterborough complains of the insolence of the answers made to him. This is certaintly not true of Mr. Grimshawe, Mr. Neville, or of the author of the Appeal. They have answered his lordship with great force, great manliness, but with perfect respect. Does the bishop expect that humble men, as learned as himself, are to be driven from their houses and homes by his new theology, and then to send him letters of thanks for the kicks and cuffs he has bestowed upon them? Men of very small incomes, be it known to his lordship, have very often very acute feelings; and a curate trod on feels a pang as great as when a bishop is refuted.

We shall now give a specimen of some answers, which, we believe, would exclude a curate from the diocese of Peterborough, and contrast these answers with the articles of the

church to which they refer. The 9th Article of the Church of England is upon Original Sin. Upon this point his lordship puts the following question:—

'Did the Fall of Adam produce such an effect on his posterity, that mankind became thereby a mass of mere corruption, or of absolute and entire depravity? Or is the effect only such, that we are very *far gone* from original righteousness, and of our own nature *inclined* to evil?'

Excluding Answer.	*The Ninth Article.*
'The fall of Adam produced such an effect on his posterity, that mankind became thereby a mass of mere corruption, or of absolute and entire depravity.'	'Original sin standeth not in the following of Adam (as the Pelagians do vainly talk); but it is the fault or corruption of the nature of every man, that naturally is engendered of the offspring of Adam, whereby man is very far gone from original righteousness, and is of his own nature inclined to evil, so that the flesh lusteth always contrary to the spirit; and therefore, in every person born into the world, it deserveth God's wrath and damnation.'

The 9th Question, Cap. 3d, on Free Will, is as follows:—Is it not contrary to Scripture to say, that man has no share in the work of his salvation?

Excluding Answer.	*Tenth Article.*
'It is quite agreeable to Scripture to say, that man has no share in the work of his own salvation.'	'The condition of man after the fall of Adam is such, that he cannot turn and prepare himself, by his own natural strength and good works, to faith, and calling upon God. Wherefore, we have no power to do good works pleasant and acceptable to God, without the grace of God by Christ preventing us, that we may have a good will, and working with us when we have that good will.'

On Redemption, his lordship has the following question, Cap. 1st, Question 1st:—Did Christ die for all men, or did he die only for a chosen few?

Excluding Answer.	*Part of Article Seventeenth.*
'Christ did not die for all men, but only for a chosen few.'	'Predestination to life is the everlasting purpose of God, whereby (before the foundations of the world were laid) he hath constantly decreed by his counsel, secret to us, to deliver from curse and damnation those whom he hath chosen in Christ out of mankind, and to bring them by Christ unto everlasting salvation, as vessels made to honour.'

Now, whether these answers are right or wrong, we do not presume to decide; but we cannot help saying, there appears to be some little colour in the language of the Articles for the errors of the respondent. It does not appear at first sight to be such a deviation from the plain, literal, and grammatical sense of the Articles, as to merit rapid and ignominious ejectment from the bosom of the church.

Now we have done with the Bishop. We give him all he asks as to his legal right; and only contend, that he is acting a very indiscreet and injudicious part—fatal to his quiet—fatal to his reputation as a man of sense—blamed by ministers—blamed by all the Bench of Bishops—vexatious to the clergy, and highly injurious to the church. We mean no personal disrespect to the bishop; we are as ignorant of him as of his victims. We should have been heartily glad if the debate in Parliament had put an end to these blameable excesses; and our only object, in meddling with the question, is to restrain the arm of power within the limits of moderation and justice—one of the great objects which first led to the establishment of this Journal, and which, we hope, will always continue to characterize its efforts.

BOTANY BAY. (Edinburgh Review, 1823.)

1. *Letter to Earl Bathurst*, by the Honourable H. Grey Bennet, M. P.
2. *Report of the Commissioner of Inquiry into the State of the Colony of New South Wales. Ordered by the House of Commons to be printed*, 19*th June*, 1822.

Mr. Bigge's Report is somewhat long, and a little clumsy; but it is altogether the production of an honest, sensible, and respectable man, who has done his duty to the public, and justified the expense of his mission to the fifth or pickpocket quarter of the globe.

What manner of man is Governor Macquarrie?—Is all that Mr. Bennet says of him in the House of Commons true? These are the questions which Lord Bathurst sent Mr. Bigge, and very properly sent him, 28,000 miles to answer. The answer is, that Governor Macquarrie is not a dishonest man, nor a jobber; but arbitrary, in many things scandalously negligent, very often wrong-headed, and, upon the whole, very deficient in that good sense, and vigorous understanding, which his new and arduous situation so manifestly requires.

Ornamental architecture in Botany Bay! How it could enter into the head of any human being to adorn public buildings at the Bay, or to aim at any other architectural purpose but the exclusion of wind and rain, we are utterly at a loss to conceive. Such an expense is not only lamentable for the waste of property it makes in the particular instance, but because it destroys that guarantee of sound sense which the government at home must require in those who preside over distant colonies. A man who thinks of pillars and pilasters, when half the colony are wet through for want of any covering at all, cannot be a wise or prudent person. He seems to be ignorant, that the prevention of rheumatism in all young colonies is a much more important object than the gratification of taste, or the display of skill.

'I suggested to Governor Macquarrie the expediency of stopping

all work then in progress that was merely of an ornamental nature, and of postponing its execution till other more important buildings were finished. With this view it was, that I recommended to the governor to stop the progress of a large church, the foundation of which had been laid previous to my arrival, and which, by the estimate of Mr. Greenway the architect, would have required six years to complete. By a change that I recommended, and which the governor adopted, in the destination of the new court-house at Sydney, the accommodation of a new church is probably by this time secured. As I conceived that considerable advantage had been gained by inducing Governor Macquarrie to suspend the progress of the larger church, I did not deem it necessary to make any pointed objection to the addition of these ornamental parts of the smaller one; though I regretted to observe in this instance, as well as in those of the new stables at Sydney, the turnpike gate house and the new fountain there, as well as in the repairs of an old church at Paramatta, how much more the embellishment of these places had been considered by the governor than the real and pressing wants of the colony. The buildings that I had recommended to his early attention in Sydney were, a new gaol, a school-house, and a market-house. The defects of the first of these buildings will be more particularly pointed out when I come to describe the buildings that have been erected in New South Wales. It is sufficient for me now to observe, that they were striking, and of a nature not to be remedied by additions or repairs. The other two were in a state of absolute ruin; they were also of undeniable importance and necessity. Having left Sydney in the month of November, 1820, with these impressions, and with a belief that the suggestions I had made to Governor Macquarrie respecting them had been partly acted upon, and would continue to be so during my absence in Van Diemen's Land, it was not without much surprise and regret that I learnt, during my residence in that settlement, the resumption of the work at the large church in Sydney, and the steady continuation of the others that I had objected to, especially the governor's stables at Sydney. I felt the greater surprise in receiving the information respecting this last-mentioned structure, during my absence in Van Diemen's Land, as the governor himself had, upon many occasions, expressed to me his own regret at having ever sanctioned it, and his consciousness of its extravagant dimensions and ostentatious character.'—*Report*, pp. 51, 52.

One of the great difficulties in Botany Bay is to find proper employment for the great mass of convicts who are sent out. Governor Macquarrie selects all the best artisans, of every description, for the use of government; and puts the poets, attorneys, and politicians, up to auction. The evil consequences of this are manifold. In the first place, from possessing so many of the best artificers, the governor is necessarily turned into a builder; and immense drafts are drawn upon the treasury at home, for buildings better adapted for Regent

street than the Bay. In the next place, the poor settler, finding that the convict attorney is very awkward at cutting timber, or catching kangaroos, soon returns him upon the hands of government, in a much worse plight than that in which he was received. Not only are governors thus debauched into useless and expensive builders, but the colonists, who are scheming and planning with all the activity of new settlers, cannot find workmen to execute their designs.

What two ideas are more inseparable than beer and Britannia?—what event more awfully important to an English colony, than the erection of its first brewhouse?—and yet it required, in Van Diemen's Land, the greatest solicitation to the government, and all the influence of Mr. Bigge, to get it effected. The government, having obtained possession of the best workmen, keep them; their manumission is much more infrequent than that of the useless and unprofitable convicts; in other words, one man is punished for his skill, and another rewarded for his inutility. Guilty of being a locksmith—guilty of stone-masonry, or brick-making;—these are the second verdicts brought in, in New South Wales; and upon them is regulated the duration or mitigation of punishment awarded in the mother-country. At the very period when the governor assured Lord Bathurst, in his despatches, that he kept and employed so numerous a gang of workmen, only because the inhabitants could not employ them, Mr. Bigge informs us, that their services would have been most acceptable to the colonists. Most of the settlers, at the time of Mr. Bigge's arrival, from repeated refusals and disappointments, had been so convinced of the impossibility of obtaining workmen, that they had ceased to make application to the governor. Is it to be believed, that a governor, placed over a land of convicts, and capable of guarding his limbs from any sudden collision with odometrous stones, or vertical posts of direction, should make no distinction between the simple convict and the double and treble convict—the man of three juries, who has three times appeared at the Bailey, trilarcenous—three times driven over the seas?

'I think it necessary to notice the want of attention that has prevailed, until a very late period, at Sydney, to the circumstances of those convicts who have been transported a second and a third time. Although the knowledge of these facts is transmitted in the hulk lists, or acquired without difficulty during the passage, it never has occur-

red to Governor Macquarrie or to the superintendent of convicts, to make any difference in the condition of these men, not even to disappoint the views that they may be supposed to have indulged by the success of a criminal enterprise in England, and by transferring the fruits of it to New South Wales.

'To accomplish this very simple but important object, nothing more was necessary than to consign these men to any situation rather than that which their friends had selected for them, and distinctly to declare in the presence of their comrades at the first muster on their arrival, that no consideration or favour would be shown to those who had violated the law a second time, and that the mitigation of their sentences must be indefinitely postponed.'—*Report*, p. 19.

We were not a little amused at Governor Macquarrie's laureate—a regular Mr. Southey—who, upon the king's birthday, sings the praises of Governor Macquarrie.* The case of this votary of Apollo and Mercury was a case for life; the offence a menacing epistle, or, as low people call it, a *threatening letter*. He has been pardoned, however—bursting his shackles, like Orpheus of old, with song and metre, and is well spoken of by Mr. Bigge, but no specimen of his poetry given. One of the best and most enlightened men in the settlement appears to be Mr. Marsden, a clergyman at Paramatta. Mr. Bennet represents him as a gentleman of great feeling, whose life is embittered by the scenes of horror and vice it is his lot to witness at Paramatta. Indeed, he says of himself, that, in consequence of these things, 'he does not enjoy one happy moment from the beginning to the end of the week!' This letter, at the time, produced a very considerable sensation in this country. The idea of a man of refinement and feeling wearing away his life in the midst of scenes of crime and debauchery to which he can apply no corrective is certainly a very melancholy and affecting picture; but there is no story, however elegant and eloquent, which does not require, for the purposes of justice, to be turned to the other side, and viewed in reverse. The Rev. Mr. Marsden (says Mr. Bigge), *being himself accustomed to traffic in spirits*, must necessarily feel displeased at having so many public houses licensed in the neighbourhood.—(p. 14.)

'As to Mr. Marsden's troubles of mind' (says the governor), 'and pathetic display of sensibility and humanity, they must be so deeply seated, and so far removed from the surface, as to escape all possible observation. His habits are those of a man for ever engaged in some

* *Vide* Report, p. 146.

active, animated pursuit. No man travels more from town to town, or from house to house. His deportment is at all times that of a person the most gay and happy. When I was honoured with his society, he was by far the most cheerful person I met in the colony. Where his hours of sorrow were spent, it is hard to divine; for the variety of his pursuits, both in his own concerns, and in those of others, is so extensive, in farming, grazing, manufactories, transactions, that, with his clerical duties, he seems, to use a common phrase, to have his hands full of work. And the particular subject to which he imputes this extreme depression of mind, is, besides, one for which few people here will give him much credit.'—*Macquarrie's Letter to Lord Sidmouth*, p. 18.

There is certainly a wide difference between a man of so much feeling, that he has not a moment's happiness from the beginning to the end of the week, and a little merry bustling clergyman, largely concerned in the sale of rum, and brisk at a bargain for barley. Mr. Bigge's evidence, however, is very much in favour of Mr. Marsden. He seems to think him a man of highly respectable character and superior understanding, and that he has been dismissed from the magistracy by Governor Macquarrie, in a very rash, unjustifiable, and even tyrannical manner; and in these opinions, we must say, the facts seem to bear out the report of the commissioner.

Colonel Macquarrie not only dismisses honest and irreproachable men in a country where their existence is scarce, and their services inestimable, but he advances convicts to the situation and dignity of magistrates. Mr. Bennet lays great stress upon this, and makes it one of his strongest charges against the governor; and the commissioner also takes part against it. But we confess we have great doubts on the subject; and are by no means satisfied, that the system of the governor was not, upon the whole, the wisest and best adapted to the situation of the colony. Men are governed by words; and by the infamous term *convict*, are comprehended crimes of the most different degrees and species of guilt. One man is transported for stealing three hams and a pot of sausages; and in the next berth to him on board the transport is a young surgeon, who has been engaged in the mutiny at the Nore; the third man is for extorting money; the fourth was in a respectable situation of life at the time of the Irish rebellion, and was so ill read in history, as to imagine that Ireland had been ill-treated by England, and so bad a reasoner as to suppose, that nine Catholics ought not to pay tithes to one

Protestant. Then comes a man who set his house on fire, to cheat the Phœnix office; and, lastly, that most glaring of all human villains, a poacher, driven from Europe, wife and child, by thirty lords of manors, at the Quarter Sessions, for killing a partridge. Now, all these are crimes no doubt—particularly the last; but they are surely crimes of very different degrees of intensity, to which different degrees of contempt and horror are attached—and from which those who have committed them may, by subsequent morality, emancipate themselves, with different degrees of difficulty, and with more or less of success. A warrant granted by a reformed bacon stealer would be absurd; but there is hardly any reason why a foolish hot-brained young blockhead, who chose to favour the mutineers at the Nore, when he was sixteen years of age, may not make a very loyal subject, and a very respectable and respected magistrate when he is forty years of age, and has cast his Jacobine teeth, and fallen into the practical jobbing and loyal baseness which so commonly developes itself about that period of life. Therefore, to say that a man must be placed in no situation of trust or elevation, as a magistrate, merely because he is a convict, is to govern mankind with a dictionary, and to surrender sense and usefulness to sound. Take the following case, for instance, from Mr. Bigge:—

'The next person, from the same class, that was so distinguished by Governor Macquarrie, was the Rev. Mr. Fulton. He was transported by the sentence of a court martial in Ireland, during the Rebellion; and on his arrival in New South Wales in the year 1800, was sent to Norfolk Island to officiate as chaplain. He returned to New South Wales in the year 1804, and performed the duties of chaplain at Sydney and Paramatta.

'In the divisions that prevailed in the colony previous to the arrest of Governor Bligh, Mr. Fulton took no part; but, happening to form one of his family when the person of the governor was menaced with violence, he courageously opposed himself to the military party that entered the house, and gave an example of courage and devotion to the authority of Governor Bligh, which, if partaken either by the officer or his few adherents, would have spared him the humiliation of a personal arrest, and rescued his authority from the disgrace of open and violent suspension.'—*Report*, pp. 83, 84.

The particular nature of the place too must be remembered. It is seldom, we suspect, that absolute dunces go to the Bay, but commonly men of active minds, and considerable talents in their various lines—who have not learnt, indeed, the art of

self-discipline and control, but who are sent to learn it in the bitter school of adversity. And when this medicine produces its proper effect—when sufficient time has been given to show a thorough change in character and disposition—a young colony really cannot afford to dispense with the services of any person of superior talents. Activity, resolution, and acuteness, are of such immense importance in the hard circumstances of a new state, that they must be eagerly caught at, and employed as soon as they are discovered. Though all may not be quite so unobjectionable as could be wished—

> 'Res dura, et regni novitas me talia cogunt
> Moliri'—

as Colonel Macquarrie probably quoted to Mr. Commissioner Bigge. As for the conduct of those extra-moralists, who come to settle in a land of crime, and refuse to associate with a convict legally pardoned, however light his original offence, however perfect his subsequent conduct—we have no toleration for such folly and foppery. To sit down to dinner with men who have not been tried for their lives is a luxury which cannot be enjoyed in such a country. It is entirely out of the question; and persons so dainty, and so truly admirable, had better settle at Clapham Common than at Botany Bay. Our trade in Australasia is to turn scoundrels into honest men. If you come among us, and bring with you a good character, and will lend us your society, as a stimulus and reward to men recovering from degradation, you will confer the greatest possible benefit upon the colony; but if you turn up your nose at repentance, insult those unhappy people with your character, and fiercely stand up as a moral bully, and a virtuous braggadocio, it would have been far better for us if Providence had directed you to any other part of the globe than to Botany Bay—which was colonized, not to gratify the insolence of Pharisees, but to heal the contrite spirit of repentant sinners. Mr. Marsden, who has no happiness from six o'clock Monday morning, till the same hour the week following, will not meet pardoned convicts in society. We have no doubt Mr. Marsden is a very respectable clergyman; but is there not something very different from this in the Gospel? The most resolute and inflexible persons in the rejection of pardoned convicts were some of the marching regiments stationed at Botany Bay—men, of course, who had uniformly

shunned, in the Old World, the society of gamesters, prostitutes, drunkards, and blasphemers—who had ruined no tailors, corrupted no wives, and had entitled themselves, by a long course of solemnity and decorum, to indulge in all the insolence of purity and virtue.

In this point, then, of restoring convicts to society, we side, as far as the principle goes, with the governor; but we are far from undertaking to say that his application of the principle has been on all occasions prudent and judicious. Upon the absurdity of his conduct in attempting to *force* the society of the pardoned convicts upon the undetected part of the colony, there can be no doubt. These are points upon which every body must be allowed to judge for themselves. The greatest monarchs in Europe cannot control opinion upon those points—sovereigns far exceeding Colonel Lachlan Macquarrie, in the antiquity of their dynasty, and the extent, wealth, and importance of their empire.

'It was in vain to assemble them' (the pardoned convicts) 'even on public occasions, at Government House, or to point them out to the especial notice and favour of strangers, or to favour them with particular marks of his own attention upon these occasions, if they still continued to be shunned, or disregarded by the rest of the company.

'With the exception of the Reverend Mr. Fulton, and, on some occasions, of Mr. Redfern, I never observed that the other persons of this class participated in the general attentions of the company; and the evidence of Mr. Judge Advocate Wylde and Major Bell both prove the embarrassment in which they were left on occasions that came within their notice.

'Nor has the distinction that has been conferred upon them by Governor Macquarrie produced any effect in subduing the prejudices or objections of the class of free inhabitants to associate with them. One instance only has occurred, in which the wife of a respectable individual, and a magistrate, has been visited by the wives of the officers of the garrison, and by a few of the married ladies of the colony. It is an instance that reflects equal credit upon the individual herself, as upon the feelings and motives of those by whom she has been so noticed; but the circumstances of her case were very peculiar, and those that led to her introduction to society were very much of a personal kind. It has generally been thought, that such instances would have been more numerous if Governor Macquarrie had allowed every person to have followed the dictates of their own judgment upon a subject, on which, of all others, men are least disposed to be dictated to, and most disposed to judge for themselves.

'Although the emancipated convicts, whom he has selected from

their class, are persons who generally bear a good character in New South Wales, yet that opinion of them is by no means universal. Those, however, who entertained a good opinion of them would have proved it by their notice, as Mr. M'Arthur has been in the habit of doing, by the kind and marked notice that he took of Mr. Fitzgerald; and those who entertained a different opinion, would not have contracted an aversion to the principle of their introduction, from being obliged to witness what they considered to be an indiscreet and erroneous application of it.'—*Report*, p. 150.

We do not think Mr. Bigge exactly seizes the sense of Colonel Macquarrie's phrase, when the colonel speaks of restoring men to the rank of society they have lost. Men may either be classed by wealth and education, or by character. All honest men, whether counts or cobblers, are of the same rank, if classed by moral distinctions. It is a common phrase to say that such a man can no longer be ranked among honest men; that he has been degraded from the class of respectable persons; and, therefore, by restoring a convict to the rank he has lost, the governor may very fairly be supposed to mean the moral rank. In discussing the question of granting offices of trust to convicts, the importance of the *Scelerati* must not be overlooked. Their numbers are very considerable. They have one-eighth of all the granted land in the colony; and there are among them individuals of very large fortune. Mr. Redfern has 2600 acres, Mr. Lord 4365 acres, and Mr. Samuel Terry 19,000 acres. As this man's history is a specimen of the mud and dirt out of which great families often arise, let the *Terry Filii*, the future warriors, legislators, and nobility of the Bay, learn from what, and whom, they sprang.

'The first of these individuals, Samuel Terry, was transported to the colony when young. He was placed in a gang of stone-masons at Paramatta, and assisted in the building of the gaol. Mr. Marsden states, that during this period he was brought before him for neglect of duty, and punished; but, by his industry in other ways, he was enabled to set up a small retail shop, in which he continued till the expiration of his term of service. He then repaired to Sydney, where he extended his business, and, by marriage, increased his capital. He for many years kept a public house and retail shop, to which the smaller settlers resorted from the country, and where, after intoxicating themselves with spirits, they signed obligations and powers of attorney to confess judgment, which were always kept ready for execution. By these means, and by an active use of the common arts of overreaching ignorant and worthless men, Samuel Terry has been able to accumulate a considerable capital, and a quantity of land in New

South Wales, inferior only to that which is held by Mr. D'Arcy Wentworth. He ceased, at the late regulations introduced by the magistrates at Sydney, in February, 1820, to sell spirituous liquors, and he is now become one of the principal speculators in the purchase of investments at Sydney, and lately established a water-mill in the swampy plains between that town and Botany Bay, which did not succeed. Out of the 19,000 acres of land held by Samuel Terry, 140 only are stated to be cleared; but he possesses 1450 head of horned cattle, and 3800 sheep.'—*Report,* p. 141.

Upon the subject of the New South Wales Bank, Mr. Bigge observes,—

'Upon the first of these occasions, it became an object both with Governor Macquarrie and Mr. Judge-Advocate Wyld, who took an active part in the establishment of the bank, to unite in its favour the support and contributions of the individuals of all classes of the colony. Governor Macquarrie felt assured that, without such co-operation, the bank could not be established; for he was convinced that the emancipated convicts were the most opulent members of the community. A committee was formed for the purpose of drawing up the rules and regulations of the establishment, in which are to be found the names of George Howe, the printer of the Sydney Gazette, who was also a retail dealer; Mr. Simon Lord, and Mr. Edward Eager, all emancipated convicts, and the last only conditionally.

'Governor Macquarrie had always understood, and strongly wished, that in asking for the co-operation of all classes of the community in the formation of the bank, a share in its direction and management should also be communicated to them.'—*Report,* p. 150.

In the discussion of this question, we became acquainted with a piece of military etiquette, of which we were previously ignorant. An officer, invited to dinner by the governor, cannot refuse, unless in case of sickness. This is the most complete tyranny we ever heard of. If the officer comes out to his duty at the proper minute, with his proper number of buttons and epaulettes, what matters it to the governor or any body else, where he dines? He may as well be ordered what to eat, as where to dine—be confined to the upper or under side of the meat—be denied gravy, or refused melted butter. But there is no end to the small tyranny, and puerile vexations of a military life.

The mode of employing convicts upon their arrival appears to us very objectionable. If a man is skilful as a mechanic, he is added to the government gangs; and in proportion to his skill and diligence, his chance of manumission, or of remission of labour, is lessened. If he is not skilful, or not skilful in any trade wanted by government, he is applied for

by some settler, to whom he pays from 5*s.* to 10*s.* a week; and is then left at liberty to go where, and work for whomsoever, he pleases. In the same manner, a convict who is rich is applied for, and obtains his weekly liberty and idleness by the purchased permission of the person to whom he is consigned.

The greatest possible inattention or ignorance appears to have prevailed in manumitting convicts for labour—and for *such* labour! not for cleansing Augean stables, or draining Pontine marshes, or damming out a vast length of the Adriatic, but for working five weeks with a single horse and cart in making the road to Bathurst Plains. Was such labour worth five pounds? And is it to be understood, that liberty is to be restored to any man who will do five pounds' worth of work in Australasia? Is this comment upon transportation to be circulated in the cells of Newgate, or in the haunts of those persons who are doomed to inhabit them?

'Another principle by which Governor Macquarrie has been guided in bestowing pardons and indulgences, is that of considering them as rewards for any particular labour or enterprise. It was upon this principle, that the men who were employed in working upon the Bathurst road, in the year 1815, and those who contributed to that operation by the loan of their own carts and horses, or of those that they procured, obtained pardons, emancipations, and tickets of leave. To 39 men who were employed as labourers in this work, three free pardons were given, one ticket of leave, and 35 emancipations; and two of them only had held tickets of leave before they commenced their labour. Seven convicts received emancipations for supplying horses and carts for the carriage of provisions and stores as the party was proceeding; six out of this number having previously held tickets of leave.

'Eight other convicts (four of whom held tickets of leave) received emancipations for assisting with carts, and one horse to each, in the transport of provisions and baggage for the use of Governor Macquarrie and his suite, on their journey from the river Nepean to Bathurst, in the year 1816; a service that did not extend beyond the period of five weeks, and was attended with no risk, and very little exertion.

'Between the months of January, 1816, and June, 1818, nine convicts, of whom six held tickets of leave, obtained emancipations for sending carts and horses to convey provisions and baggage from Paramatta to Bathurst, for the use of Mr. Oxley, the surveyor-general, in his two expeditions into the interior of the country. And in the same period, 23 convict labourers and mechanics obtained emancipations for labour and service performed at Bathurst.

'The nature of the services performed by these convicts, and the

manner in which some of them were recommended, excited much surprise in the colony, as well as great suspicion of the purity of the channels through which the recommendations passed.'—*Report*, pp. 122, 123.

If we are to judge from the number of jobs detected by Mr. Bigge, Botany Bay seems very likely to do justice to the mother-country from whence it sprang. Mr. Redfern, surgeon, seems to use the public rhubarb for his private practice. Mr. Hutchinson, superintendent, makes a very comfortable thing of the assignment of convicts. Major Druit was found selling their own cabbages to government in a very profitable manner; and many comfortable little practices of this nature are noticed by Mr. Bigge.

Among other sources of profit, the superintendent of convicts was the banker; two occupations which seem to be eminently compatible with each other, inasmuch as they afford to the superintendent the opportunity of evincing his impartiality and loading with equal labour every convict, without reference to their banking accounts, to the profit they afford, or the trouble they create. It appears, however (very strangely), from the report, that the money of convicts was not always recovered with the same readiness it was received.

Mr. Richard Fitzgerald, in September, 1819, was comptroller of provisions in Emu Plains, storekeeper at Windsor, and superintendent of government works at the same place. He was also a proprietor of land and stock in the neighbourhood, and kept a public house in Windsor, of which an emancipated Jew was the ostensible manager, upon whom Fitzgerald gave orders for goods and spirits in payment for labour on the public works. These two places are fifteen miles distant from each other, and convicts are to be watched and managed at both. It cannot be imagined that the convicts are slow in observing or following these laudable examples; and their conduct will add another instance of the vigilance of Macquarrie's government.

'The stores and materials used in the different buildings at Sydney are kept in a magazine in the lumber yard, and are distributed according to the written requisitions of the different overseers that are made during the day, and that are addressed to the storekeeper in the lumber yard. They are conveyed from thence to the buildings by the convict mechanics; and no account of the expenditure or employment of the stores is kept by the overseers, or rendered to the storekeeper. It was only in the early part of the year 1820 that an account

was opened by him of the different materials used in each work or building; and in February, 1821, this account was considerably in arrear. The temptation, therefore, that is afforded to the convict mechanics who work in the lumber yard, in secreting tools, stores, and implements, and to those who work at the different buildings, is very great, and the loss to government is considerable. The tools, moreover, have not latterly been mustered as they used to be once a month, except where one of the convicts is removed from Sydney to another station.'—*Report*, pp. 36, 37.

If it was right to build fine houses in a new colony, common sense seems to point out a control upon the expenditure, with such a description of workmen. What must become of that country where the buildings are useless, the governor not wise, the public the paymaster, the accounts not in existence, and all the artisans thieves?

An horrid practice prevailed, of the convicts accepting a sum of money from the captain, in their voyage out, in lieu of their regular ration of provisions. This ought to be restrained by the severest penalties.

What is it that can be urged for Governor Macquarrie, after the following picture of the hospital at Paramatta? It not only justifies his recall, but seems to require (if there are means of reaching such neglect) his severe punishment.

'The women, who had become most profligate and hardened by habit, were associated in their daily tasks with those who had very lately arrived, to whom the customs and practices of the colony were yet unknown, and who might have escaped the consequences of such pernicious lessons, if a little care, and a small portion of expense, had been spared in providing them with a separate apartment during the hours of labour. As a place of employment, the factory at Paramatta was not only very defective, but very prejudicial. The insufficient accommodation that it afforded to those females who might be well disposed presented an early incitement, if not an excuse, for their resorting to indiscriminate prostitution; and on the evening of their arrival at Paramatta, those who were not deploring their state of abandonment and distress, were traversing the streets in search of the guilty means of future support. The state in which the place itself was kept, and the state of disgusting filth in which I found it, both on an early visit after my arrival, and on one preceding my departure; the disordered, unruly, and licentious appearance of the women, manifested the little degree of control in which the female convicts were kept, and the little attention that was paid to any thing beyond the mere performance of a certain portion of labour.'—*Report*, p. 70.

It might naturally be supposed, that any man sent across the globe with a good salary, for the express purpose of go-

verning, and, if possible, of reforming convicts, would have preferred the morals of his convicts to the accommodation of his horses. Let Mr. Bigge, a very discreet and moderate man, be heard upon these points.

'Having observed, in Governor Macquarrie's answer to Mr. Marsden, that he justified the delay that occurred, and was still to take place, in the construction of a proper place of reception for the female convicts, by the want of any specific instructions from your lordship to undertake such a building, and which he states that he solicited at an early period of his government, and considered indispensable, I felt it to be my duty to call to the recollection of Governor Macquarrie, that he had undertaken several buildings of much less urgent necessity than the factory at Paramatta, without waiting for any such indispensable authority: and I now find that the construction of it was announced by him to our lordship in the year 1817, as then in his contemplation, without making any specific allusion to the evils which the want of it had so long occasioned; that the contract for building it was announced to the public on the 21st May, 1818, and that your lordship's approval of it was not signified until the 24th August, 1818, and could not have reached Governor Macquarrie's hands until nearly a year after the work had been undertaken. It appears, therefore, that if want of authority had been the sole cause of the delay in building the factory at Paramatta, that cause would not only have operated in the month of March, 1818, but it would have continued to operate until the want of authority had been formally supplied. Governor Macquarrie, however, must be conscious, that after he had stated to Mr. Marsden in the year 1815, and with an appearance of regret, that the want of authority prevented him from undertaking the construction of a building of such undeniable necessity and importance as the factory at Paramatta, he had undertaken several buildings, which, though useful in themselves, were of less comparative importance; *and had commenced, in the month of August,* 1817, *the laborious and expensive construction of his own stables at Sydney, to which I have already alluded,* without any previous communication to your lordship, and in direct opposition to an instruction that must have then reached him, and that forcibly warned him of the consequences.'—*Report,* p. 71.

It is the fashion very much among the tories of the House of Commons, and all those who love the effects of public liberty, without knowing or caring how it is preserved, to attack every person who complains of abuses, and to accuse him of gross exaggeration. No sooner is the name of any public thief, or of any tormentor, or oppressor, mentioned in that honourable house, than out bursts the spirit of jobbing eulogium, and there is not a virtue under heaven which is not ascribed to the delinquent in question, and vouched for by the

most irrefragable testimony. If Mr. Bennet or Sir Francis Burdett had attacked them, and they had now been living, how many honourable members would have vouched for the honesty of Dudley and Empsom, the gentleness of Jeffries, or the genius of Blackmore? What human virtue did not Aris and the governor of Ilchester gaol possess? Who was not ready to come forward to vouch for the attentive humanity of Governor Macquarrie? What scorn and wit would it have produced from the treasury bench, if Mr. Bennet had stated the superior advantages of the horses over the convicts?—and all the horrors and immoralities, the filth and wretchedness, of the female prison of Paramatta? Such a case, proved, as this now is beyond the power of contradiction, ought to convince the most hardy and profligate scoffers, that there is really a great deal of occasional neglect, and oppression in the conduct of public servants; and that in spite of all the official praise, which is ever ready for the perpetrators of crime, there is a great deal of real malversation which should be dragged to the light of day, by the exertions of bold and virtuous men. If we had found, from the report of Mr. Bigge, that the charges of Mr. Bennet were without any, or without adequate foundation, it would have given us great pleasure to have vindicated the governor; but Mr. Bennet has proved his indictment. It is impossible to read the foregoing quotation, and not to perceive, that the conduct and proceedings of Governor Macquarrie imperiously required the exposure they have received; and that it would have been much to the credit of government if he had been removed long ago from a situation which, but for the exertions of Mr. Bennet, we believe he would have held to this day.

The sick, from Mr. Bigge's report, appear to have fared as badly as the sinful. Good water was scarce, proper persons to wait upon the patients could not be obtained; and so numerous were the complaints from this quarter, that the governor makes an order for the exclusion of all hospital grievances and complaints, *except on one day in the month*—dropsy swelling, however, fever burning, and ague shaking, in the mean time, without waiting for the arrangements of Governor Macquarrie, or consulting the *Mollia tempora fandi.*

In permitting individuals to distil their own grain, the government of Botany Bay appears to us to be quite right. It is impossible, in such a colony, to prevent unlawful distillation

to a considerable extent; and it is as well to raise upon spirits (as something must be taxed) that slight duty which renders the contraband trade not worth following. Distillation, too, always insures a magazine against famine, by which New South Wales has more than once been severely visited. It opens a market for grain where markets are very distant, and where redundance and famine seem very often to succeed each other. The cheapness of spirits, to such working people as know how to use them with moderation, is a great blessing; and we doubt whether that moderation, after the first burst of ebriety, is not just as likely to be learnt in plenty, as in scarcity.

We were a little surprised at the scanty limits allowed to convicts for sleeping on board the transports. Mr. Bigge (of whose sense and humanity we really have not the slightest doubt) states eighteen inches to be quite sufficient—twice the length of a small sheet of letter-paper. The printer's devil, who carries our works to the press, informs us, that the allowance to the demons of the type is double foolscap length, or twenty-four inches. The great city upholsterers generally consider six feet as barely sufficient for a person just rising in business, and assisting occasionally at official banquets.

Mrs. Fry's* system is well spoken of by Mr. Bigge; and its useful effect in promoting order and decency among floating convicts fully admitted.

In a voyage to Botany Bay by Mr. Read, he states that, while the convict vessel lay at anchor, about to sail, a boat from shore reached the ship, and from it stepped a clerk of the Bank of England. The convicts felicitated themselves upon

* We are sorry it should have been imagined, from some of our late observations on prison discipline, that we meant to disparage the exertions of Mrs. Fry. For prisoners before trial, it is perfect; but where imprisonment is intended for punishment, and not for detention, it requires, as we have endeavoured to show, a very different system. The Prison Society (an excellent, honourable, and most useful institution of some of the best men in England,) have certainly, in their first numbers, fallen into the common mistake of supposing that the reformation of the culprit, and not the prevention of the crime, was the main object of imprisonment; and have, in consequence, taken some false views of the method of treating prisoners—the exposition of which, after the usual manner of flesh and blood, makes them a little angry. But, in objects of so high a nature, what matters *who* is right?—the only question is, *what* is right?

the acquisition of so gentlemanlike a companion; but it soon turned out that the visitant had no intention of making so long a voyage. Finding that they were not to have the pleasure of his company, the convicts very naturally thought of picking his pockets; the necessity of which professional measure was prevented by a speedy distribution of their contents. Forth from his bill-case, this votary of Plutus drew his nitid Newlands; all the forgers and utterers were mustered on deck; and to each of them was well and truly paid into his hand, a five pound note; less acceptable, perhaps, than if privately removed from the person, but still joyfully received. This was well intended on the part of the directors: but the consequences it is scarcely necessary to enumerate; a large stock of rum was immediately laid in from the circumambient slop boats; and the materials of constant intoxication secured for the rest of the voyage.

The following account of pastoral convicts is striking and picturesque:—

'I observed that a great many of the convicts in Van Diemen's Land wore jackets and trowsers of the kangaroo skin, and sometimes caps of the same material, which they obtain from the stock-keepers who are employed in the interior of the country. The labour of several of them differs, in this respect, from that of the convicts in New South Wales, and is rather pastoral than agricultural. Permission having been given, for the last five years, to the settlers to avail themselves of the ranges of open plains and valleys that lie on either side of the road leading from Austin's Ferry to Launceston, a distance of 120 miles, their flocks and herds have been committed to the care of convict shepherds and stock-keepers, who are sent to these cattle ranges, distant sometimes 30 or 40 miles from their masters' estates.

'The boundaries of these tracts are descirbed in the tickets of occupation by which they are held, and which are made renewable every year, on payment of a fee to the lieutenant governor's clerk. One or more convicts are stationed on them, to attend to the flocks and cattle, and are supplied with wheat, tea, and sugar, at the monthly visits of the owner. They are allowed the use of a musket and a few cartridges to defend themselves against the natives; and they have also dogs, with which they hunt the kangaroos, whose flesh they eat, and dispose of their skins to persons passing from Hobart Town to Launceston, in exchange for tea and sugar. They thus obtain a plentiful supply of food, and sometimes succeed in cultivating a few vegetables. Their habitations are made of turf and thatched, as the bark of the dwarf eucalyptus, or gum-trees of the plains; and the interior, in Van Diemen's Land, is not of sufficient expanse to form covering or shelter.'—*Report*, pp. 107, 108.

A London thief, clothed in kangaroo's skins, lodged under

the bark of the dwarf eucalyptus, and keeping sheep, fourteen thousand miles from Piccadilly, with a crook bent into the shape of a picklock, is not an uninteresting picture; and an engraving of it might have a very salutary effect—provided no engraving were made of his convict master, to whom the sheep belong.

The Maroon Indians were hunted by dogs—the fugitive convicts are recovered by the natives.

'The native blacks that inhabit the neighbourhood of Port Hunter and Port Stephens have become very active in retaking the fugitive convicts. They accompany the soldiers who are sent in pursuit, and, by the extraordinary strength of sight they possess, improved by their daily exercise of it in pursuit of kangaroos and opossums, they can trace to a great distance, with wonderful accuracy, the impressions of the human foot. Nor are they afraid of meeting the fugitive convicts in the woods, when sent in their pursuit, without the soldiers; by their skill in throwing their long and pointed wooden darts, they wound and disable them, strip them of their clothes, and bring them back as prisoners, by unknown roads and paths, to the Coal river.

'They are rewarded for these enterprizes by presents of maize and blankets; and, notwithstanding the apprehensions of revenge from the convicts whom they bring back, they continue to live in Newcastle and its neighbourhood; but are observed to prefer the society of the soldiers to that of the convicts.'—*Report*, p. 117.

Of the convicts in New South Wales, Mr. Bigge found about eight or nine in an hundred to be persons of respectable character and conduct, though the evidence respecting them is not quite satisfactory. But the most striking and consolatory passage in the whole report is the following:—

'The marriages of the native-born youths with female convicts are very rare; a circumstance that is attributable to the general disinclination to early marriage that is observable amongst them, and partly to the abandoned and dissolute habits of the female convicts; but chiefly to a sense of pride in the native-born youths, approaching to contempt for the vices and depravity of the convicts, even when manifested in the persons of their own parents.'—*Report*, p. 105.

Every thing is to be expected from these feelings. They convey to the mother-country the first proof that the foundations of a mighty empire are laid.

We were somewhat surprised to find Governor Macquarrie contending with Mr. Bigge, that it was no part of his, the governor's, duty to select and separate the useless from the useful convicts, or to determine, except in particular cases, to whom they are to be assigned. In other words, he wishes to

effect the customary separation of salary and duty—the grand principle which appears to pervade all human institutions, and to be the most invincible of all human abuses. Not only are church, king, and state, allured by this principle of vicarious labour, but the pot-boy has a lower pot-boy, who, for a small portion of the small gains of his principal, arranges, with inexhaustible sedulity, the subdivided portions of drink, and, intensely perspiring, disperses, in bright pewter, the frothy elements of joy.

There is a very awkward story of a severe flogging inflicted upon three freemen by Governor Macquarrie, without complaint to, or intervention of, any magistrate; a fact not denied by the governor, and for which no adequate apology, nor any thing approaching to an adequate apology, is offered. These Asiatic and Satrapical proceedings, however, we have reason to think, are exceedingly disrelished by London juries. The profits of having been unjustly flogged at Botany Bay (Scarlett for the plaintiff) is good property, and would fetch a very considerable sum at the auction mart. The governor, in many instances, appears to have confounded diversity of opinion upon particular measures, with systematic opposition to his government, and to have treated as disaffected persons those whom, in favourite measures, he could not persuade by his arguments, nor influence by his example, and on points where every man has a right to judge for himself, and where authority has no legitimate right to interfere, much less to dictate.

To the charges confirmed by the statement of Mr. Bigge, Mr. Bennet adds, from the evidence collected by the gaol committee, that the fees in the governor's court, collected by the authority of the governor, are most exorbitant and oppressive; and that illegal taxes are collected under the sole authority of the governor. It has been made, by colonial regulations, a capital offence to steal the wild cattle; and, in 1816, three persons were convicted of stealing a wild bull, *the property of our sovereign lord the king*. Now, our sovereign lord the king (whatever be his other merits or demerits) is certainly a very good-natured man, and would be the first to lament that an unhappy convict was sentenced to death for killing one of his wild bulls on the other side of the world. The cases of Mr. Moore and of William Stewart, as quoted by Mr. Bennet, are very strong. If they are answerable, they should be answered. The concluding letter to

Mr. Stewart is, to us, the most decisive proof of the unfitness of Colonel Macquarrie for the situation in which he was placed. The ministry at home, after the authenticity of the letter was proved, should have seized upon the first decent pretext of recalling the governor, of thanking him, in the name of his sovereign, for his valuable services (not omitting his care of the wild bulls), and of dismissing him to half pay—and insignificance.

As to the trial by jury, we cannot agree with Mr. Bennet, that it would be right to introduce it at present, for reasons we have given in a previous article, and which we see no reason for altering. The time of course will come when it would be in the highest degree unjust and absurd to refuse to that settlement the benefit of popular institutions. But they are too young, too few, and too deficient for such civilized machinery at present. 'I cannot come to serve upon the jury—the waters of the Hawksbury are out, and I have a mile to swim—the kangaroos will break into my corn—the convicts have robbed me—my little boy has been bitten by an ornithorynchus paradoxus—I have sent a man fifty miles with a sack of flour to buy a pair of breeches for the assizes, and he is not returned.' These are the excuses which, in new colonies, always prevent trial by jury; and make it desirable for the first half century of their existence, that they should live under the simplicity and convenience of despotism—such modified despotism (we mean) as a British House of Commons (always containing men as bold and honest as the member for Shrewsbury) will permit, in the governors of their distant colonies.

Such are the opinions formed of the conduct of Governor Macquarrie by Mr. Bigge. Not the slightest insinuation is made against the integrity of his character. Though almost every body else has a job, we do not perceive that any is imputed to this gentleman; but he is negligent, expensive, arbitrary, ignorant, and clearly deficient in abilities for the task committed to his charge. It is our decided opinion, therefore, that Mr. Bennet has rendered a valuable service to the public, in attacking and exposing his conduct. As a gentleman and an honest man, there is not the smallest charge against the governor; but a gentleman, and a very honest man, may very easily ruin a very fine colony. The colony itself, disencumbered of Colonel Lachlan Macquarrie, will

probably become a very fine empire; but we can scarcely believe it is of any present utility as a place of punishment. The history of emancipated convicts, who have made a great deal of money by their industry and their speculations, necessarily reaches this country, and prevents men who are goaded by want, and hovering between vice and virtue, from looking upon it as a place of suffering—perhaps leads them to consider it as the land of hope and refuge, to them unattainable, except by the commission of crime. And so they lift up their heads at the bar, hoping to be transported,—

> 'Stabant orantes primi transmittere cursum
> Tendebantque manus, ripæ ulterioris amore.'

It is not possible, in the present state of the law, that these enticing histories of convict prosperity should be prevented, by one uniform system of severity exercised in New South Wales, upon all transported persons. Such different degrees of guilt are included under the term of convict, that it would violate every feeling of humanity, and every principle of justice, to deal out one measure of punishment to all. We strongly suspect that this is the root of the evil. We want new gradations of guilt to be established by law—new names for those gradations—and a different measure of good and evil treatment attached to those denominations. In this manner, the mere *convict*, the *rogue and convict*, and the *incorrigible convict*, would expect, upon their landing, to be treated with very different degrees of severity. The first might be merely detained in New South Wales without labour or coercion; the second compelled, at all events, to work out two-thirds of his time, without the possibility of remission; and the third be destined at once for the Coal River.* If these consequences steadily followed these gradations of conviction, they would soon be understood by the felonious world at home. At present, the prosperity of the best convicts is considered to be attainable by all; and transportation to another hemisphere is looked upon as the renovation of fallen fortunes, and the passport to wealth and power.

Another circumstance, which destroys all idea of punishment in transportation to New South Wales, is the enormous expense which that settlement would occasion, if it really

* This practice is now resorted to.

was made a place of punishment. A little wicked tailor arrives, of no use to the architectural projects of the governor. He is turned over to a settler, who leases this sartorial Borgia his liberty for five shillings per week, and allows him to steal and snip, what, when, and where he can. The excuse for all this mockery of law and justice is, that the expense of his maintenance is saved to the government at home. But the expense is not saved to the country at large. The nefarious needleman writes home, that he is as comfortable as a finger in a thimble! that though a fraction only of humanity, he has several wives, and is filled every day with rum and kangaroo. This, of course, is not lost upon the shop-board; and, for the saving of fifteen pence per day, the foundation of many criminal tailors is laid. What is true of tailors, is true of tinkers and all other trades. The chances of escape from labour, and of manumission in the Bay, we may depend upon it, are accurately reported, and perfectly understood in the flash-houses of St. Giles; and, while Earl Bathurst is full of jokes and joy, public morals are thus sapped to their foundation.

GAME LAWS. (Edinburgh Review, 1823.)

A Letter to the Chairman of the Committee of the House of Commons, on the Game Laws. By the Hon. and Rev. William Herbert. Ridgway, 1823.

About the time of the publication of this little pamphlet of Mr. Herbert, a committee of the House of Commons published a Report on the Game Laws, containing a great deal of very curious information respecting the sale of game, an epitome of which we shall now lay before our readers. The country higglers who collect poultry, gather up the game from the depots of the poachers, and transmit it in the same manner as poultry, and in the same packages, to the London poulterers, by whom it is distributed to the public; and this traffic is carried on (as far as game is concerned) even from the distance of Scotland. The same business is carried on by the porters of stage coaches; and a great deal of game is sold clandestinely by lords of manors, or by gamekeepers, without the knowledge of lords of manors; and principally, as the evidence states, from Norfolk and Suffolk, the great schools of steel traps and spring guns. The supply of game, too, is proved to be quite as regular as the supply of poultry; the number of hares and partridges supplied rather exceeds that of pheasants; but any description of game may be had to any amount. Here is a part of the evidence.

'Can you at any time procure any quantity of game? I have no doubt of it.—If you were to receive almost an unlimited order, could you execute it? Yes, I would supply the whole city of London, any fixed day once a week, all the year through, so that every individual inhabitant should have game for his table.—Do you think you could procure a thousand pheasants? Yes; I would be bound to produce *ten thousand* a week.—You would be bound to provide every family in London with a dish of game? Yes; a partridge, or a pheasant, or a hare, or a grouse, or something or other.—How would you set about doing it? I should, of course, request the persons with whom I am in the habit of dealing, to use their influence to bring me what they could by a certain day; I should speak to the dealers and the mail-

guards, and coachmen, to produce a quantity; and I should send to my own connections in one or two manors where I have the privilege of selling for those gentlemen; and should send to Scotland to say, that every week the largest quantity they could produce was to be sent. Being but a petty salesman, I sell a very small quantity; but I have had about 4000 head direct from one man.—Can you state the quantity of game which has been sent to you during the year? No; I may say, perhaps, 10,000 head; mine is a limited trade; I speak comparatively to that of others; I only supply private families.'—*Report*, p. 20.

Poachers who go out at night cannot, of course, like regular tradesmen, proportion the supply to the demand, but having once made a contract, they kill all they can; and hence it happens that the game market is sometimes very much overstocked, and great quantities of game either thrown away, or disposed of by Irish hawkers to the common people at very inferior prices.

'Does it ever happen to you to be obliged to dispose of poultry at the same low prices you are obliged to dispose of game? It depends upon the weather; often, when there is a considerable quantity on hand, and owing to the weather, it will not keep till the following day, I am obliged to take any price that is offered; but we can always turn either poultry or game into some price or other; and if it was not for the Irish hawkers, hundreds and hundreds of heads of game would be spoiled and thrown away. It is out of the power of any person to conceive for one moment the quantity of game that is hawked in the streets. I have had opportunity more than other persons of knowing this; for I have sold, I may say, more game than any other person in the city; and we serve hawkers indiscriminately, persons who come and purchase probably six fowls or turkeys and geese, and they will buy heads of game with them.'—*Report*, p. 22.

Live birds are sent up as well as dead; eggs as well as birds. The price of pheasants' eggs last year was 8*s.* per dozen; of partridges' eggs, 2*s.* The price of hares was from 3*s.* to 5*s.* 6*d.*; of partridges, from 1*s.* 6*d.* to 2*s.* 6*d.*; of pheasants, from 5*s.* to 5*s.* 6*d.* each, and sometimes as low as 1*s.* 6*d.*

'What have you given for game this year? It is very low indeed; I am sick of it; I do not think I shall ever deal again. We have got game this season as low as half-a-crown a brace (birds), and pheasants as low as 7*s.* a brace. It is so plentiful, there has been no end to spoiling it this season. It is so plentiful, it is of no use. In war time it was worth having; then they fetched 7*s.* and 8*s.* a brace.'—*Report*, p. 33.

All the poulterers, too, even the most respectable state, that it is absolutely necessary they should carry on this illegal

traffic in the present state of the game laws; because their regular customers for poultry would infallibly leave any poulterer's shop from whence they could not be supplied with game.

'I have no doubt that it is the general wish at present of the trade not to deal in the article; but they are all, of course, compelled from their connections. If they cannot get game from one person, they can from another.

'Do you believe that poulterers are not to be found who would take out licenses, and would deal with those very persons, for the purposes of obtaining a greater profit than they would have dealing as you would do? I think the poulterers in general are a respectable set of men, and would not countenance such a thing; they feel now that they are driven into a corner; that there may be men who would countenance irregular proceedings, I have no doubt.—Would it be their interest to do so, considering the penalty? No, I think not. The poulterers are perfectly well aware that they are committing a breach of the law at present.—Do you suppose that those persons, respectable as they are, who are now committing a breach of the law, would not equally commit that breach if the law were altered? No, certainly not; at present it is so connected with their business that they cannot help it.—You said just now, that they were driven into a corner; what did you mean by that? We are obliged to aid and abet those men who commit those depredations, because of the constant demand for game, from different customers whom we supply with poultry.—Could you carry on your business as a poulterer, if you refused to supply game? By no means; because some of the first people in the land require it of me.'—*Report*, p. 15.

When that worthy errorist, Mr. Bankes, brought in his bill of additional severities against poachers, there was no man of sense and reflection who did not anticipate the following consequences of the measure.

'Do you find that less game has been sold in consequence of the bill rendering it penal to sell game? Upon my word, it did not make the slightest difference in the world.—Not immediately after it was made? No; I do not think it made the slightest difference.—It did not make the slightest sensation? No, I never sold a bird less.—Was not there a resolution of the poulterers not to sell game? I was secretary to that committee.—What was the consequence of that resolution? A great deal of ill blood in the trade. One gentleman who just left the room did not come into my ideas. I never had a head of game in my house; all my neighbours sold it; and as we had people on the watch, who were ready to watch it into the houses, it came to this, we were prepared to bring our actions against certain individuals, after sitting, perhaps, from three to four months every week, which we did at the Crown and Anchor in the Strand, but we did not proceed with our actions, to prevent ill blood in the trade. We regularly met, and,

as we conceived at the time, formed a committee of the most respectable of the trade. I was secretary of that committee. The game was sold in the city, in the vicinity of the Royal Exchange, cheaper than ever was known, because the people at our end of the town were afraid. I, as a point of honour, never had it in my house. I never had a head of game in my house that season.—What was the consequence? I lost my trade, and gave offence to gentlemen; a nobleman's steward, or butler, or cook, treated it as contumely; "Good God, what is the use of your running your head against the wall?" —You were obliged to begin the trade again? Yes, and sold more than ever.'—*Report*, p. 18.

These consequences are confirmed by the evidence of every person before the committee.

All the evidence is very strong as to the fact, that dealing in game is not discreditable; that there are a great number of respectable persons, and, among the rest, the first poulterers in London, who buy game knowing it to have been illegally procured, but who would never dream of purchasing any other article procured by dishonesty.

'Are there not, to your knowledge, a great many people in this town who deal in game, by buying or selling it, that would not on any account buy or sell stolen property? Certainly; there are many capital tradesmen, poulterers, who deal in game, that would have nothing to do with stolen property; and yet I do not think there is a poulterer's shop in London where they could not get game, if they wanted it.—Do you think any discredit attaches to any man in this town for buying or selling game? I think none at all: and I do not think that the men to whom I have just referred would have any thing to do with stolen goods.—Would it not, in the opinion of the inhabitants of London, be considered a very different thing dealing in stolen game, or stolen poultry? Certainly.—The one would be considered disgraceful, and the other not? Certainly; they think nothing of dealing in game; and the farmers in the country will not give information; they will have a hare or two of the very men who work for them, and they are afraid to give us information.'—*Report*, p. 31.

The evidence of Daniel Bishop, one of the Bow Street officers, who has been a good deal employed in the apprehension of poachers, is curious and important, as it shows the enormous extent of the evil, and the ferocious spirit which the game laws engender in the common people. 'The poachers,' he says, 'came 16 miles. The whole of the village from which they were taken were poachers; the constable of the village, and the shoemaker, and other inhabitants of the village. I fetched one man 22 miles. There was the son of a respectable gardener; one of these was a sawyer, and another a

baker, who kept a good shop there. If the village had been alarmed, we should have had some mischief; but we were all prepared with fire-arms. If poachers have a spite with the gamekeeper, that would induce them to go out in numbers to resist him. This party I speak of had something in their hats to distinguish them. They take a delight in setting to with the gamekeepers; and talk it over afterwards how they served so and so. They fought with the butt-ends of their guns at Lord Howe's; they beat the gamekeepers shockingly.'—'Does it occur to you (Bishop is asked) to have had more applications, and to have detected more persons this season than in any former one? Yes; I think within four months there have been twenty-one transported that I have been at the taking of, and through one man turning evidence in each case, and without that they could not have been identified; the gamekeepers could not, or would not, identify them. The poachers go to the public house and spend their money; if they have a good night's work, they will go and get drunk with the money. The gangs are connected together at different public houses, just like a club at a public house; they are all sworn together. If the keeper took one of them, they would go and attack him for so doing.'

Mr. Stafford, chief clerk of Bow Street, says, 'All the offences against the game laws which are of an atrocious description I think are generally reported to the public office in Bow Street, more especially in cases where the keepers have either been killed, or dangerously wounded, and the assistance of an officer from Bow Street is required. The applications have been much more numerous of late years* than they were formerly. Some of them have been cases of murder; but I do not think many have amounted to murder. There are many instances in which keepers have been very ill treated—they have been wounded, skulls have been fractured, and bones broken; and they have been shot at. A man takes an hare, or a pheasant, with a very different feeling from that

* It is only of late years that men have been transported for shooting at night. There are instances of men who have been transported at the Sessions for night poaching, who made no resistance at all when taken; but then their characters as old poachers weighed against them—characters estimated probably by the very lords of manors who had lost their game. This disgraceful law is the occasion of all the murders committed for game.

with which he would take a pigeon or a fowl out of a farmyard. The number of persons that assemble together is more for the purpose of protecting themselves against those that may apprehend them, than from any idea that they are actually committing depredation upon the property of another person; they do not consider it as property. I think there is a sense of morality and a distinction of crime existing in the men's minds, although they are mistaken about it. Men feel that if they go in a great body together, to break into a house, or to rob a person, or to steal his poultry, or his sheep, they are committing a crime against that man's property; but I think with respect to the game, they do not feel that they are doing any thing which is wrong; but think they have committed no crime when they have done the thing, and their only anxiety is to escape detection.' In addition, Mr. Stafford states that he remembers not *one single conviction under Mr. Bankes's Act against buying game;* and not one conviction for buying or selling game within the last year has been made at Bow Street.

The inferences from these facts are exactly as we predicted, and as every man of common sense must have predicted—that to prevent the sale of game is absolutely impossible. If game is plentiful, and cannot be obtained at any lawful market, an illicit trade will be established, which it is utterly impossible to prevent by any increased severity of the laws. There never was a more striking illustration of the necessity of attending to public opinion in all penal enactments. Mr. Bankes (a perfect representative of all the ordinary notions about forcing mankind by pains and penalties) took the floor. To buy a partridge (though still considered as inferior to murder) was visited with the very heaviest infliction of the law; and yet, though game is sold as openly in London as apples and oranges, though three years have elapsed since this legislative mistake, the officers of the police can hardly recollect a single instance where the information has been laid, or the penalty levied: and why? because every man's feelings and every man's understanding tell him, that it is a most absurd and ridiculous tyranny to prevent one man, who has more game than he wants, from exchanging it with another man, who has more money than he wants—because magistrates will not (if they can avoid it) inflict such absurd penalties—because even common informers know enough of the honest

indignation of mankind, and are too well aware of the coldness of pump and pond to act under the bill of the Lycurgus of Corfe Castle.

The plan now proposed is, to undersell the poacher, which may be successful or unsuccessful; but the threat is, if you attempt this plan there will be no game—and if there is no game, there will be no country gentlemen. We deny every part of this enthymeme—the last proposition as well as the first. We really cannot believe that all our rural mansions would be deserted, although no game was to be found in their neighbourhood. Some come into the country for health, some for quiet, for agriculture, for economy, from attachment to family estates, from love of retirement, from the necessity of keeping up provincial interests, and from a vast variety of causes. Partridges and pheasants, though they form nine-tenths of human motives, still leave a small residue, which may be classed under some other head. Neither is a great proportion of those whom the love of shooting brings into the country of the smallest value or importance to the country. A colonel of the Guards, the second son just entered at Oxford, three dinners out from Piccadilly—Major Rock, Lord John, Lord Charles, the colonel of the regiment quartered at the neighbouring town, two Irish peers, and a German baron; —if all this honourable company proceed with fustian jackets, dog-whistles, and chemical inventions, to a solemn destruction of pheasants, how is the country benefited by their presence? or how would earth, air, or sea, be injured by their annihilation? There are certainly many valuable men brought into the country by a love of shooting, who, coming there for that purpose, are useful for many better purposes; but a vast multitude of shooters are of no more service to the country than the ramrod which condenses the charge, or the barrel which contains it. We do not deny that the annihilation of the game laws would thin the aristocratical population of the country; but it would not thin that population so much as is contended; and the loss of many of the persons so banished would be a good rather than a misfortune. At all events, we cannot at all comprehend the policy of alluring the better classes of society into the country, by the temptation of petty tyranny and injustice, or of monopoly in sports. How absurd it would be to offer to the higher orders the exclusive use of peaches, nectarines, and apricots, as the premium of

rustication—to put vast quantities of men into prison as apricot eaters, apricot buyers, and apricot sellers—to appoint a regular day for beginning to eat, and another for leaving off—to have a lord of the manor for green gages—and to rage with a penalty of five pounds against the unqualified eater of the gage! And yet the privilege of shooting a set of wild poultry is stated to be the bonus for the residence of country gentlemen. As far as this immense advantage can be obtained without the sacrifice of justice and reason, well and good—but we would not oppress any order of society, or violate right and wrong, to obtain any population of squires, however dense. It is the grossest of all absurdities to say the present state of the law is absurd and unjust; but it must not be altered, because the alteration would drive gentlemen out of the country! If gentlemen cannot breathe fresh air without injustice, let them putrefy in Cranborne Alley. Make just laws, and let squires live and die where they please.

The evidence collected in the House of Commons respecting the Game Laws is so striking and so decisive against the gentlemen of the trigger, that their only resource is to represent it as not worthy of belief. But why not worthy of belief? It is not stated what part of it is incredible. Is it the plenty of game in London for sale? the unfrequency of convictions? the occasional but frequent excess of supply above demand in an article supplied by stealing? or its destruction when the sale is not without risk, and the price extremely low? or the readiness of grandees to turn the excess of their game into fish or poultry? All these circumstances appear to us so natural and so likely, that we should, without any evidence, have but little doubt of their existence. There are a few absurdities in the evidence of one of the poulterers; but, with this exception, we see no reason whatever for impugning the credibility and exactness of the mass of testimony prepared by the committee.

It is utterly impossible to teach the common people to respect property in animals bred the possessor knows not where—which he cannot recognize by any mark, which may leave him the next moment, which are kept, not for his profit, but for his amusement. Opinion never will be in favour of such property; if the *animus furandi* exists, the propensity will be gratified by poaching. It is in vain to increase the severity of the protecting laws. They make the case weaker,

instead of stronger; and are more resisted and worse executed, exactly in proportion as they are contrary to public opinion:—the case of the game laws is a memorable lesson upon the philosophy of legislation. If a certain degree of punishment does not cure the offence, it is supposed, by the Bankes' School, that there is nothing to be done but to multiply this punishment by two, and then again and again, till the object is accomplished. The efficient maximum of punishment, however, is not what the legislature chooses to enact, *but what the great mass of mankind think the maximum ought to be.* The moment the punishment passes this Rubicon, it becomes less and less, instead of greater and greater. Juries and magistrates will not commit—informers* are afraid of public indignation—poachers will not submit to be sent to Botany Bay without a battle—blood is shed for pheasants—the public attention is called to this preposterous state of the law—and even ministers—(whom nothing pesters so much as the interests of humanity) are at least compelled to come forward and do what is right. Apply this to the game laws. It was before penal to sell game: within these few years, it has been made penal to buy it. From the scandalous cruelty of the law, night poachers are transported for seven years. And yet, never was so much game sold, or such a spirit of ferocious resistance excited to the laws. One-fourth of all the commitments in Great Britain are for offences against the game laws. There is a general feeling that some alteration must take place—a feeling not only among Reviewers, who never see nor eat game, but among the double-barrelled, shot-belted members of the House of Commons, who are either alarmed or disgusted by the vice and misery which their cruel laws and childish passion for amusement are spreading among the lower orders of mankind.

It is said, 'In spite of all the game sold, there is game

* There is a remarkable instance of this in the new Turnpike Act. The penalty for taking more than the legal number of outside passengers is ten pounds per head, if the coachman is in part or wholly the owner. This will rarely be levied; because it is too much. A penalty of 100*l.* would produce perfect impunity. The maximum of practical severity would have been about five pounds. Any magistrate would cheerfully levy this sum; while doubling it will produce reluctance in the judge, resistance in the culprit, and unwillingness in the informer.

enough left; let the laws therefore remain as they are;' and so it was said formerly, 'There is sugar enough; let the slave trade remain as it is.' But at what expense of human happiness is this quantity of game or of sugar, and this state of poacher law and slave law, to remain! The first object of a good government is not that rich men should have their pleasures in perfection, but that all orders of men should be good and happy; and if crowded covies and chuckling cock-pheasants are only to be procured by encouraging the common people in vice, and leading them into cruel and disproportionate punishment, it is the duty of the government to restrain the cruelties which the country members, in reward for their assiduous loyalty, have been allowed to introduce into the game laws.

The plan of the new bill (long since anticipated, in all its provisions, by the acute author of the pamphlet before us,) is, that the public at large should be supplied by persons licensed by magistrates, and that all qualified persons should be permitted to sell their game to these licensed distributors; and there seems a fair chance that such a plan would succeed. The questions are, Would sufficient game come into the hands of the licensed salesman? Would the licensed salesman confine himself to the purchase of game from qualified persons? Would buyers of game purchase elsewhere than from the licensed salesman? Would the poacher be undersold by the honest dealer? Would game remain in the same plenty as before? It is understood that the game laws are to remain as they are; with this only difference, that the qualified man can sell to the licensed man, and the licentiate to the public.

It seems probable to us, that vast quantities of game would, after a little time, find their way into the hands of licensed poulterers. Great people are very often half eaten up by their establishments. The quantity of game killed in a large shooting party is very great; to eat it is impossible, and to dispose of it in presents very troublesome. The preservation of game is very expensive; and, when it could be bought, it would be no more a compliment to send it as a present than it would be to send geese and fowls. If game were sold, very large shooting establishments might be made to pay their own expenses. The shame is made by the law; there is a disgrace in being detected and fined. If that barrier were removed,

superfluous partridges would go to the poulterers as readily as superfluous venison does to the venison butcher—or as a gentleman sells the corn and mutton off his farm which he cannot consume. For these reasons, we do not doubt that the shops of licensed poulterers would be full of game in the season; and this part of the argument, we think, the arch-enemy, Sir John Shelley, himself would concede to us.

The next question is, From whence they would procure it? A license for selling game, granted by country magistrates, would, from their jealousy upon these subjects, be granted only to persons of some respectability and property. The purchase of game from unqualified persons would, of course, be guarded against by very heavy penalties, both personal and pecuniary; and these penalties would be inflicted, because opinion would go with them. 'Here is a respectable tradesman,' it would be said, 'who might have bought as much game as he pleased in a lawful manner, but who, in order to increase his profits by buying it a little cheaper, has encouraged a poacher to steal it.' Public opinion, therefore, would certainly be in favour of a very strong punishment; and a licensed vender of game, who exposed himself to these risks, would expose himself to the loss of liberty, property, character, and license. The persons interested to put a stop to such a practice, would not be the paid agents of government, as in cases of smuggling; but all the gentlemen of the country, the customers of the tradesman for fish, poultry, or whatever else he dealt in, would have an interest in putting down the practice. In all probability, the practice would become disreputable, like the purchase of stolen poultry; and this would be a stronger barrier than the strongest laws. There would, of course, be some exceptions to this statement. A few shabby people would, for the chance of gaining sixpence, incur the risk of ruin and disgrace; but it is probable that the general practice would be otherwise.

For the same reasons, the consumers of game would rather give a little more for it to a licensed poulterer, than expose themselves to severe penalties by purchasing from poachers. The great mass of London consumers are supplied now, not from shabby people, in whom they can have no confidence—not from hawkers and porters, but from respectable tradesmen, in whose probity they have the most perfect confidence. Men will brave the law for pheasants, but not for sixpence or a

shilling; and the law itself is much more difficult to be braved, when it allows pheasants to be bought at some price, than when it endeavours to render them utterly inaccessible to wealth. All the licensed salesmen, too, would have a direct interest in stopping the contraband trade of game. They would lose no character in doing so; their informations would be reasonable and respectable.

If all this is true, the poacher would have to compete with a great mass of game fairly and honestly poured into the market. He would be selling with a rope about his neck, to a person who bought with a rope about his neck; his description of customers would be much the same as the customers for stolen poultry, and his profits would be very materially abridged. At present, the poacher is in the same situation as the smuggler would be, if rum and brandy could not be purchased of any fair trader. The great check to the profits of the smuggler are, that, if you want his commodities, and will pay an higher price, you may have them elsewhere without risk or disgrace. But forbid the purchase of these luxuries at any price. Shut up the shop of the brandy merchant, and you render the trade of the smuggler of incalculable value. The object of the intended bill is, to raise up precisely the same competition to the trade of the poacher, by giving the public an opportunity of buying lawfully and honestly the tempting articles in which he now deals exclusively. Such an improvement would not, perhaps, altogether annihilate his trade; but it would, in all probability, act as a very material check upon it.

The predominant argument against all this is, that the existing prohibition against buying game, though partially violated, does deter many persons from coming into the market; that if this prohibition were removed, the demand for game would be increased, the legal supply would be insufficient, and the residue would, and must be, supplied by the poacher, whose trade would, for these reasons, be as lucrative and flourishing as before. But it is only a few years since the purchase of game has been made illegal: and the market does not appear to have been at all narrowed by the prohibition; not one head of game the less has been sold by the poulterers; and scarcely one single conviction has taken place under that law. How, then, would the removal of the prohibition, and the alteration of the law, extend the market, and increase the demand, when the enactment of the prohibition has had no effect in narrowing

it? But if the demand increases, why not the legal supply also? Game is increased upon an estate by feeding them in winter, by making some abatement to the tenants for guarding against depredations, by a large apparatus of gamekeepers and spies—in short, by expense. But if this pleasure of shooting, so natural to country gentlemen, is made to pay its own expenses, by sending superfluous game to market, more men, it is reasonable to suppose, will thus preserve and augment their game. The love of pleasure and amusement will produce in the owners of game that desire to multiply game, which the love of gain does in the farmer to multiply poultry. Many gentlemen of small fortune will remember, that they cannot enjoy to any extent this pleasure without this resource; that the legal sale of poultry will discountenance poaching; and they will open an account with the poulterer, not to get richer, but to enjoy a great pleasure without an expense, in which, upon other terms, they could not honourably and conscientiously indulge. If country gentlemen of moderate fortune will do this (and we think after a little time they will do it), game may be multiplied and legally supplied to any extent. Another keeper, and another bean-stack, will produce their proportional supply of pheasants. The only reason why the great lord has more game per acre than the little squire is, that he spends more money per acre to preserve it.

For these reasons, we think the experiment of legalizing the sale of game ought to be tried. The game laws have been carried to a pitch of oppression which is a disgrace to the country. The prisons are half filled with peasants, shut up for the irregular slaughter of rabbits and birds—a sufficient reason for killing a weasel, but not for imprisoning a man. Something should be done; it is disgraceful to a government to stand by, and see such enormous evils without interference. It is true, they are not connected with the struggles of party; but still, the happiness of the common people, whatever gentlemen may say, ought every now and then to be considered.

CRUEL TREAMENT OF UNTRIED PRISONERS.

(Edinburgh Review, 1824.)

1. *A Letter to the Right Honourable Robert Peel, one of His Majesty's Principal Secretaries of State, &c. &c. &c. on Prison Labour.* By John Headlam, M. A., Chairman of the Quarter Sessions for the North Riding of the County of York. London. Hatchard and Son, 1823,
2. *Information and Observations, respecting the proposed Improvements at York Castle.* Printed by Order of the Committee of Magistrates. September, 1823.

It has been the practice, all over England, for these last fifty years,* not to *compel* prisoners to work before guilt was proved. Within these last three or four years, however, the magistrates of the North Riding of Yorkshire, considering it improper to support any idle person at the county expense, have resolved, that prisoners committed to the house of correction for trial, and requiring county support, should work for their livelihood; and no sooner was the treadmill brought into fashion, than that machine was adopted in the North Riding as the species of labour by which such prisoners were to earn their maintenance. If these magistrates did not consider themselves empowered to burden the county rates for the support of prisoners before trial, who would not contribute to support themselves, it does not appear, from the publication of the reverend chairman of the sessions, that any opinions of counsel were taken as to the legality of so putting prisoners to work, or of refusing them maintenance if they choose to be idle; but the magistrates themselves decided that such was the law of the land. Thirty miles off, however, the law of the land was differently interpreted; and in the Castle of York large sums were annually expended in the maintenance of idle prisoners before trial, and paid by the different Ridings, without remonstrance or resistance.†

* Headlam, p. 6.

† We mention the case of the North Riding, to convince our rea-

Such was the state of affairs in the county of York before the enactment of the recent prison bill. After that period, enlargements and alterations were necessary in the county jail; and it was necessary also for these arrangements, that the magistrates should know whether or not they were authorized to maintain such prisoners at the expense of the county, as, being accounted able and unwilling to work, still claimed the county allowance. To questions proposed upon these points to three barristers the following answers were returned:—

'2dly, I am of opinion, that the magistrates are empowered, and are compelled to maintain, at the expense of the county, such prisoners *before* trial as are able to work, unable to maintain themselves, and not willing to work; and that they have not the power of compelling such prisoners to work, either at the treadmill, or any other species of labour. J. GURNEY.

'*Lincoln's Inn Fields, 2d September*, 1823.'

'I think the magistrates are empowered, under the tenth section (explained by the 37th and 38th), to maintain prisoners before trial, who are able to work, unable to maintain themselves by their own means, or by employment which they themselves can procure, and not willing to work; and I think also, that the words "shall be lawful," in that section, do not leave them a discretion on the subject, but are compulsory. *Such* prisoners can only be employed in prison labour with *their own consent;* and it cannot be intended that the justices may force such consent, by withholding from them the necessaries of life, if they do not give it. Even those who are convicted cannot be employed at the treadmill, which I consider as a species of *severe* labour. J. PARKE.

'*September 4th*, 1823.'

'2dly, As to the point of compelling prisoners confined on criminal charges, and receiving relief from the magistrates, to reasonable labour; to that of the treadmill for instance, in which, when properly conducted, there is nothing severe or unreasonable; had the question arisen prior to the late act, I should with confidence have said, I thought the magistrates had a compulsory power in this respect. Those who cannot live without relief in a jail, cannot live without labour out of it. Labour then is their avocation. Nothing is so injurious to the morals and habits of the prisoner as the indolence prevalent in prisons; nothing so injurious to good order in the prison. The analogy between this and other cases of public support is exceedingly strong; one may almost consider it a general principle, that

ders that the practice of condemning prisoners to work before trial has existed in some parts of England; for in questions like this we have always found it more difficult to prove the existence of the facts, than to prove that they were mischievous and unjust.

those who live at the charge of the community shall, as far as they are able, give the community a compensation through their labour. But the question does not depend on mere abstract reasoning. The stat. 19 Ch. 2, c. 4, sec. 1, entitled, "An act for Relief of poor Prisoners, and setting them on work," speaks of persons committed for felony and other misdemeanours to the common jail, who many times *perish before trial;* and then proceeds as to setting poor prisoners on work. Then stat. 31 G. 3, c. 46, sec. 13, orders money to be raised for such prisoners of every description, as, being confined within the said jails, or other places of confinement, *are not able to work.* A late stat. (52 G. 3, c. 160) orders parish relief to such debtors on mesne process in jails, not county jails, as are not able to support themselves; but says nothing of finding or compelling work. Could it be doubted, that if the justices were to provide work, and the prisoner refused it, such debtors might, like any other parish paupers, be refused the relief mentioned by the statute? In all the above cases, the authority to insist on the prisoner's labour, as the condition and consideration of relief granted him, is, I think, either expressed or necessarily implied; and thus, viewing the subject, I think it was in the power of magistrates, prior to the late statute, to compel prisoners, subsisting in all or in part on public relief, to work at the treadmill. The objection commonly made is, that prisoners, prior to trial, are to be accounted innocent, and to be detained, merely that they may be secured for trial; to this the answer is obvious, that the labour is neither meant as a punishment or a disgrace, but simply as a compensation for the relief, at their own request, afforded them. Under the present statute, I, however, have no doubt, that poor prisoners are entitled to public support, and that there can be no compulsory labour prior to trial. The two statutes adverted to (19 Ch. 2, c. 4, and 31 G. 3) are, as far as this subject is concerned, expressly repealed. The legislature then had in contemplation the existing power of magistrates to order labour before trial, and having it in contemplation, repeals it; substituting (sec. 38) a power of setting to labour *only sentenced persons.* The 13th rule, too, (p. 177) speaks of labour as connected with convicted prisoners, and sec. 37 speaks in general terms of persons committed for trial, as labouring with their own consent. In opposition to these clauses, I think it impossible to speak of implied power, or power founded on general reasoning or analogy. So strong, however, are the arguments in favour of a more extended authority in justices of the peace, that it is scarcely to be doubted, that Parliament, on a calm revision of the subject, would be willing to restore, in a more distinct manner than it has hitherto been enacted, a general discretion on the subject. Were this done, there is one observation I will venture to make, which is, that should some unfortunate association of ideas render the treadmill a matter of ignominy to common feelings, an enlightened magistracy would scarcely compel an untried prisoner to a species of labour which would disgrace him in his own mind, and in that of the public. S. W. Nicoll.

'*York, August 27th,* 1823.'

In consequence, we believe, of these opinions, the North Riding magistrates, on the 13th of October (the new bill commencing on the 1st of September), passed the following resolution:—'That persons committed for trial, who are able to work, and have the means of employment offered them by the visiting magistrates, by which they may earn their support, but who obstinately refuse to work, shall be allowed bread and water only.'

By this resolution they admit, of course, that the counsel are right in their interpretation of the present law; and that magistrates are forced to maintain prisoners before trial who do not choose to work. The magistrates say, however, by their resolution, that the food shall be of the plainest and humblest kind, bread and water; meaning, of course, that such prisoners should have a sufficient quantity of bread and water, or otherwise the evasion of the law would be in the highest degree mean and reprehensible. But it is impossible to suppose any such thing to be intended by gentlemen so highly respectable. Their intention is not that idle persons before trial shall starve, but that they shall have barely enough of the plainest food for the support of life and health.

Mr. Headlam has written a pamphlet to show that the old law was very reasonable and proper; that it is quite right that prisoners before trial, who are able to support themselves, but unwilling to work, should be compelled to work, and at the treadmill, or that all support should be refused them. We are entirely of an opposite opinion; and maintain that it is neither legal nor expedient to *compel* prisoners before trial to work at the treadmill, or at any species of labour, and that those who refuse to work should be supported upon a plain healthy diet. We impute no sort of blame to the magistrates of the North Riding, or to Mr. Headlam, their chairman. We have no doubt but that they thought their measures the wisest and the best for correcting evil, and that they adopted them in pursuance of what they thought to be their duty. Nor do we enter into any discussion with Mr. Headlam, as chairman of a Quarter Sessions, but as the writer of a pamphlet. It is only in his capacity of author that we have any thing to do with him. In answering the arguments of Mr. Headlam, we shall notice, at the same time, a few other observations commonly resorted to in defence of a system which we believe to be extremely pernicious, and pregnant with the worst conse-

quences; and so thinking, we contend against it, and in support of the law as it now stands.

We will not dispute with Mr. Headlam, whether his exposition of the old law is right or wrong; because time cannot be more unprofitably employed than in hearing gentlemen who are not lawyers discuss points of law. We dare to say Mr. Headlam knows as much of the laws of his country as magistrates in general do; but he will pardon us for believing, that for the moderate sum of three guineas a much better opinion of what the law is now, or was then, can be purchased, than it is in the power of Mr. Headlam or of any county magistrate, to give for nothing—*Cuilibet in arte sua credendum est.* It is concerning the expediency of such laws, and upon that point alone, that we are at issue with Mr. Headlam; and do not let this gentleman suppose it to be any answer to our remarks to state what is done in the prison in which he is concerned, now the law is altered. The question is, whether he is right or wrong in his reasoning upon what the law *ought* to be; we wish to hold out such reasoning to public notice, and think it important it should be refuted—doubly important, when it comes from an author, the leader of the quorum, who may say with the pious Æneas,—

——Quæque ipse miserrima vidi,
Et *quorum* pars magna fui.

If, in this discussion, we are forced to insist upon the plainest and most elementary truths, the fault is not with us, but with those who forget them; and who refuse to be any longer restrained by those principles which have hitherto been held to be as clear as they are important to human happiness.

To begin, then, with the nominative case and the verb—we must remind those advocates for the treadmill, *a parte ante* (for which the millers *a parte post* we have no quarrel), that it is one of the oldest maxims of common sense, common humanity, and common law, to consider every man as innocent till he is proved to be guilty; and not only to consider him to be innocent, but to treat him as if he was so; to exercise upon his case not merely a barren speculation, but one which produces practical effects, and which secures to a prisoner the treatment of an honest, unpunished man. Now, to compel prisoners before trial to work at the treadmill, as the condition of their support, must, in a great number of instances, operate

as a very severe punishment. A prisoner may be a tailor, a watchmaker, a bookbinder, a printer, totally unaccustomed to any such species of labour. Such a man may be cast into jail at the end of August,* and not tried till the March following, is it no punishment to such a man to walk up hill like a turnspit dog, in an infamous machine, for six months? and yet there are gentlemen who suppose that the common people do not consider this as punishment!—that the gayest and most joyous of human beings is a treader, untried by a jury of his countrymen, in the fifth month of lifting up the leg, and striving against the law of gravity, supported by the glorious information which he receives from the turnkey, that he has all the time been grinding flour on the other side of the wall! If this sort of exercise, necessarily painful to sedentary persons, is agreeable to persons accustomed to labour, then make it voluntary—give the prisoners their choice—give more money and more diet to those who can and will labour at the tread mill, if the treadmill (now so dear to magistrates) is a proper punishment for untried prisoners. The position we are contending against is, that all poor prisoners who are able to work should be put to work upon the treadmill, the inevitable consequence of which practice is, a repetition of gross injustice by the infliction of undeserved punishment; for punishment, and severe punishment, to such persons as we have enumerated, we must consider it to be.

But punishments are not merely to be estimated by pain to the limbs, but by the feelings of the mind. Gentlemen punishers are sometimes apt to forget that the common people have any mental feelings at all, and think, if body and belly are attended to, that persons under a certain income have no right to likes and dislikes. The labour of the treadmill is irksome, dull, monotonous, and disgusting to the last degree. A man does not see his work, does not know what he is doing, what progress he is making; there is no room for art, contrivance, ingenuity, and superior skill—all which are the cheering circumstances of human labour. The husbandman sees

* Mr. Headlam, as we understand him, would extend this labour to all poor prisoners before trial in jails which are delivered twice a year at the assizes, as well as to houses of correction delivered four times a year at the Sessions; *i. e.* not to extend the labour, but to refuse all support to those who refuse the labour—a distinction, but not a difference.

the field gradually subdued by the plough; the smith beats the rude mass of iron by degrees into its meditated shape, and gives it a meditated utility; the tailor accommodates his parallelogram of cloth to the lumps and bumps of the human body, and, holding it up, exclaims, 'This will contain the lower moiety of an human being.' But the treader does nothing but tread; he sees no change of objects, admires no new relation of parts, imparts no new qualities to matter, and gives to it no new arrangements and positions; or, if he does, he sees and knows it not, but is turned at once from a rational being, by a justice of peace, into a *primum mobile*, and put upon a level with a rush of water or a puff of steam. It is impossible to get gentlemen to attend to the distinction between raw and roasted prisoners, without which all discussion on prisoners is perfectly ridiculous. Nothing can be more excellent than this kind of labour for persons to whom you mean to make labour as irksome as possible; but for this very reason, it is the labour to which an untried prisoner ought not to be put.

It is extremely uncandid to say that a man is obstinately and incorrigibly idle, because he will not submit to such tiresome and detestable labour as that of the treadmill. It is an old feeling among Englishmen that there is a difference between tried and untried persons, between accused and convicted persons. These old opinions were in fashion before this new magistrate's plaything was invented; and we are convinced that many industrious persons, feeling that they have not had their trial, and disgusted with the nature of the labour, would refuse to work at the treadmill, who would not be averse to join in any common and fair occupation. Mr. Headlam says, that labour may be a privilege as well as a punishment. So may taking physic be a privilege, in cases where it is asked for as a charitable relief, but not if it is stuffed down a man's throat whether he say yea or nay. Certainly labour is not necessarily a punishment: nobody has said it is so; but Mr. Headlam's labour is a punishment, because it is irksome, infamous, unasked for, and undeserved. This gentleman, however, observes, that committed persons *have offended the laws;* and the sentiment expressed in these words is the true key to his pamphlet and his system—a perpetual tendency to confound the convicted and the accused.

'With respect to those sentenced to labour as a punishment, I apprehend there is no difference of opinion. All are agreed that it is a

great defect in any prison where such convicts are unemployed. But as to all *other* prisoners, whether debtors, *persons committed for trial*, or convicts not sentenced to hard labour, if they have no means of subsisting themselves, and must, if discharged, either labour for their livelihood or apply for parochial relief, it seems unfair to society at large, and especially to those who maintain themselves by honest industry, that those who, *by offending the laws, have subjected themselves to imprisonment*, should be lodged, and clothed, and fed, without being called upon for the same exertions which others have to use to obtain such advantages.'—*Headlam*, pp. 23, 24.

Now nothing can be more unfair than to say that such men have offended the laws. That is the very question to be tried, whether they have offended the laws or not? It is merely because this little circumstance is taken for granted, that we have any quarrel at all with Mr. Headlam and his school.

'I can make,' says Mr. Headlam, 'every delicate consideration for the rare case of a person perfectly innocent being committed to jail on suspicion of crime. Such person is deservedly an object of compassion, for having fallen under circumstances which subject him to be charged with crime, and, consequently, to be deprived of his liberty: but if he has been in the habit of labouring for his bread before his commitment, there does not appear to be any addition to his misfortune in being called upon to work for his subsistence in prison.' —*Headlam*, p. 24.

And yet Mr. Headlam describes this very punishment, which does not add to the misfortunes of an innocent man, to be *generally disagreeable, to be dull, irksome, to excite a strong dislike, to be a dull monotonous, labour, to be a contrivance which connects the idea of discomfort with a jail.* (p. 36.) So that Mr. Headlam looks upon it to be no increase of an innocent man's misfortunes, to be constantly employed upon a dull, irksome, monotonous labour, which excites a strong dislike, and connects the idea of discomfort with a jail. We cannot stop, or stoop to consider, whether beating hemp is more or less dignified than working in a mill. The simple rule is this, —whatever felons do, men not yet proved to be felons should not be compelled to do. It is of no use to look into laws become obsolete by alteration of manners. For these fifty years past, and before the invention of treadmills, untried men were not put upon felons' work; but with the mill came in the mischief. Mr. Headlam asks, How can men be employed upon the ancient trades in a prison?—certainly they cannot; but are human occupations so few, and is the ingenuity of magistrates and jailers so limited, that no occupations can be

found for innocent men, but those which are shameful and odious? Does Mr. Headlam really believe, that grown up and baptized persons are to be satisfied with such arguments, or repelled by such difficulties?

It is some compensation to an acquitted person, that the labour he has gone through unjustly in jail has taught him some trade, given him an insight into some species of labour in which he may hereafter improve himself; but Mr. Headlam's prisoner, after a verdict of acquittal, has learnt no other art than of walking up hill; he has nothing to remember or recompense him but three months of undeserved and unprofitable torment. The verdict of the jury has pronounced him steady in his morals; the conduct of the justices has made him stiff in his joints.

But it is next contended by some persons, that the poor prisoner is not compelled to work, because he has the alternative of starving, if he refuses to work. You take up a poor man upon suspicion, deprive him of all his usual methods of getting his livelihood, and then giving him the first view of the treadmill, he of the quorum thus addresses him:—'My amiable friend, we use no compulsion with untried prisoners. You are free as air till you are found guilty; only it is my duty to inform you, as you have no money of your own, that the disposition to eat and drink which you have allowed you sometimes feel, and upon which I do not mean to cast any degree of censure, cannot possibly be gratified but by constant grinding in this machine. It has its inconveniences, I admit; but balance them against the total want of meat and drink, and decide for yourself. You are perfectly at liberty to make your choice, and I by no means wish to influence your judgment.' But Mr. Nicoll has a curious remedy for all this miserable tyranny; he says it is not meant as a punishment. But if I am conscious that I never have committed the offence, certain that I have never been found guilty of it, and find myself tossed into the middle of an infernal machine, by the folly of those who do not know how to use the power entrusted to them, is it any consolation to me to be told, that it is not *intended* as a punishment, that it is a lucubration of justices, a new theory of prison discipline, a valuable county experiment going on at the expense of my arms, legs, back, feelings, character, and rights? We must tie those prægustant punishers down by one question. Do you mean to inflict any degree

of punishment upon persons merely for being suspected?—or at least any other degree of punishment than that without which criminal justice cannot exist, detention? If you do, why let any one out upon bail? For the question between us is not, how suspected persons are to be treated, and whether or not they are to be punished; but how suspected *poor* persons are to be treated, who want county support in prison. If to be suspected is deserving of punishment, then no man ought to be let out upon bail, but *every one* should be kept grinding from accusation to trial; and so ought *all* prisoners to be treated for offences not bailable, and who do not want the county allowance. And yet no grinding philosopher contends, that all suspected persons should be put in the mill—but only those who are too poor to find bail, or buy provisions.

If there are, according to the doctrines of the millers, to be two punishments, the first for being suspected of committing the offence, and the second for committing it, there should be two trials as well as two punishments. Is the man really suspected, or do his accusers only pretend to suspect him? Are the suspecting of better character than the suspected? Is it a light suspicion which may be atoned for by grinding a peck a day? Is it a bushel case? or is it one deeply criminal, which requires the flour to be ground fine enough for French rolls? But we must put an end to such absurdities.

It is very untruly stated, that a prisoner, before trial, not compelled to work, and kept upon a plain diet, merely sufficient to maintain him in health, is better off than he was previous to his accusation; and it is asked, with a triumphant leer, whether the situation of any man ought to be improved, merely because he has become an object of suspicion to his fellow-creatures? This happy and fortunate man, however, is separated from his wife and family; his liberty is taken away; he is confined within four walls; he has the reflection that his family are existing upon a precarious parish support, that his little trade and property are wasting, that his character has become infamous, that he has incurred ruin by the malice of others, or by his own crimes, that in a few weeks he is to forfeit his life, or be banished from every thing he loves upon earth. This is the improved situation, and the redundant happiness which requires the penal circumvolutions of the justice's mill to cut off so unjust a balance of gratification, and bring him a little nearer to what he was before im-

prisonment and accusation. It would be just as reasonable to say, that an idle man in a fever is better off than a healthy man who is well and earns his bread. He may be better off if you look to the idleness alone, though that is doubtful; but is he better off if all the aches, agonies, disturbances, deliriums, and the nearness to death, are added to the lot?

Mr. Headlam's panacea for all prisoners before trial, is the treadmill: we beg his pardon—for all *poor* prisoners; but a man who is about to be tried for his life, often wants all his leisure time to reflect upon his defence. The exertions of every man within the walls of a prison are necessarily crippled and impaired. What can a prisoner answer who is taken hot and reeking from the treadmill, and asked what he has to say in his defence; his answer naturally is—'I have been grinding corn instead of thinking of my defence, and have never been allowed the proper leisure to think of protecting my character and my life.' This is a very strong feature of cruelty and tyranny in the mill. We ought to be sure that every man has had the fullest leisure to prepare for his defence, that his mind and body have not been harassed by vexatious and compulsory employment. The public purchase, at a great price, legal accuracy, and legal talent, to accuse a man who has not, perhaps, one shilling to spend upon his defence. It is atrocious cruelty not to leave him full leisure to write his scarcely legible letters to his witnesses, and to use all the melancholy and feeble means which suspected poverty can employ for its defence against the long and heavy arm of power.

A prisoner, upon the system recommended by Mr. Headlam, is committed, perhaps at the end of August, and brought to trial the March following; and, after all, the bill is either thrown out by the grand jury, or the prisoner is fully acquitted; and it has been found, we believe, by actual returns, that, of committed prisoners, about a half are actually acquitted, or their accusations dismissed by the grand jury. This may be very true, say the advocates of this system, but we know that many men who are acquitted are guilty. They escape through some mistaken lenity of the law, or some corruption of evidence; and as they have not had their deserved punishment after trial, we are not sorry they had it before. The English law says, better many guilty escape, than that one innocent man perish; but the humane notions of the mill are bottomed

upon the principle, that all had better be punished lest any escape. They evince a total mistrust in the jurisprudence of the country, and say the results of trial are so uncertain, that it is better to punish all the prisoners before they come into court. Mr. Headlam forgets that general rules are not beneficial in each individual instance, but beneficial upon the whole; that they are preserved because they do much more good than harm, though in some particular instances they do more harm than good; yet no respectable man violates them on that account, but holds them sacred for the great balance of advantage they confer upon mankind. It is one of the greatest crimes, for instance, to take away the life of a man; yet there are many men whose death would be a good to society, rather than an evil. Every good man respects the property of others; yet to take from a worthless miser, and to give it to a virtuous man in distress, would be an advantage. Sensible men are never staggered when they see the exception. They know the importance of the rule, and protect it most eagerly at the very moment when it is doing more harm than good. The plain rule of justice is, that no man should be punished till he is found guilty; but because Mr. Headlam occasionally sees a bad man acquitted under this rule, and sent out unpunished upon the world, he forgets all the general good and safety of the principle are debauched by the exception, and applauds and advocates a system of prison discipline which renders injustice certain, in order to prevent it from being occasional.

The meaning of all preliminary imprisonment is, that the accused person should be forthcoming at the time of trial. It was never intended as a punishment. Bail is a far better invention than imprisonment, in cases where the heavy punishment of the offence would not induce the accused person to run away from any bail. Now, let us see the enormous difference this new style of punishment makes between two men, whose only difference is, that one is poor and the other rich. A and B are accused of some bailable offence. A has no bail to offer, and no money to support himself in prison, and takes, therefore, his four or five months in the treadmill. B gives bail, appears at his trial, and both are sentenced to two months' imprisonment. In this case, the one suffers three times as much as the other for the same offence: but suppose A is acquitted and B found guilty,—the innocent man has then laboured in the treadmill five months because he was poor, and

the guilty man labours two months because he was rich. We are aware that there must be, even without the treadmill, a great and an inevitable difference between men (*in pari delicto*), some of whom can give bail, and some not; but that difference becomes infinitely more bitter and objectionable, in proportion as detention before trial assumes the character of severe and degrading punishment.

If motion in the treadmill was otherwise as fascinating as millers describe it to be, still the mere degradation of the punishment is enough to revolt every feeling of an untried person. It is a punishment consecrated to convicted felons—and it has every character that such punishment ought to have. An untried person feels at once, in getting into the mill, that he is put to the labour of the guilty; that a mode of employment has been selected for him, which renders him infamous before a single fact or argument has been advanced to establish his guilt. If men are put into the treadmill before trial, it is literally of no sort of consequence whether they are acquitted or not. Acquittal does not shelter them from punishment, for they have already been punished. It does not screen them from infamy, for they have already been treated as if they were infamous; and the association of the treadmill and crimes is not to be got over. This machine flings all the power of juries into the hands of the magistrates, and makes every simple commitment more terrible than a conviction; for, in a conviction, the magistrate considers whether the offence has been committed or not; and does not send the prisoner to jail unless he thinks him guilty; but in a simple commitment, a man is not sent to jail because the magistrate is convinced of his guilt, but because he thinks a fair question may be made to a jury whether the accused person is guilty or not. Still, however, the convicted and the suspected both go to the same mill; and he who is there upon the doubt, grinds as much flour as the other whose guilt is established by a full examination of conflicting evidence.

Where is the necessity for such a violation of common sense and common justice? Nobody asks for the idle prisoner before trial more than a very plain and moderate diet. Offer him, if you please, some labour which is less irksome, and less infamous than the treadmill,—bribe him by improved diet, and a share of the earnings; there will not be three men out of an hundred who would refuse such an invitation, and spurn

at such an improvement of their condition. A little humane attention and persuasion, among men who ought, upon every principle of justice, to be considered as innocent, we should have thought much more consonant to English justice, and to the feelings of English magistrates, than the rack and wheel of Cubitt.*

Prison discipline is an object of considerable importance; but the common rights of mankind, and the common principles of justice, and humanity, and liberty, are of greater consequence even than prison discipline. Right and wrong, innocence and guilt, must not be confounded, that a prison-fancying justice may bring his friend into the prison and say, 'Look what a spectacle of order, silence, and decorum we have established here! no idleness, all grinding!—we produce a penny roll every second—our prison is supposed to be the best regulated prison in England,—Cubitt is making us a new wheel of forty felon power,—look how white the flour is, all done by untried prisoners—as innocent as lambs!' If prison discipline is to supersede every other consideration, why are pennyless prisoners alone to be put into the mill before trial? If idleness in jails is so pernicious, why not put all prisoners in the treadmill, the rich as well as those who are unable to support themselves? Why are the debtors left out? If fixed principles are to be given up, and prisons turned into a plaything for magistrates, nothing can be more unpicturesque than to see one-half of the prisoners looking on, talking, gaping, and idling, while their poorer brethren are grinding for dinners and suppers.

It is a very weak argument to talk of the prisoners earning their support, and the expense to a county of maintaining prisoners before trial,—as if any rational man could ever expect to gain a farthing by an expensive mill, where felons are the moving power, and justices the superintendents, or as if such a trade must not necessarily be carried on at a great loss. If it were just and proper that prisoners, before trial, should be condemned to the mill, it would be of no consequence whether the county gained or lost by the trade. But the injustice of

* It is singular enough, that we use these observations in reviewing the pamphlet and system of a gentleman remarkable for the urbanity of his manners, and the mildness and humanity of his disposition.

the practice can never be defended by its economy; and the fact is, that it increases expenditure, while it violates principle. We are aware, that by leaving out repairs, alterations, and first costs, and a number of little particulars, a very neat account, signed by a jailer, may be made up, which shall make the mill a miraculous combination of mercantile speculation and moral improvement; but we are too old for all this. We accuse nobody of intentional misrepresentation. This is quite out of the question with persons so highly respectable; but men are constantly misled by the spirit of system, and egregiously deceive themselves—even very good and sensible men.

Mr. Headlam compares the case of a prisoner before trial, claiming support, to that of a pauper claiming relief from his parish. But it seems to us that no two cases can be more dissimilar. The prisoner was no pauper before you took him up, and deprived him of his customers, tools, and market. It is by your act and deed that he is fallen into a state of pauperism; and nothing can be more preposterous, than first to make a man a pauper, and then to punish him for being so. It is true, that the apprehension and detention of the prisoner were necessary for the purposes of criminal justice; but the consequences arising from this necessary act cannot yet be imputed to the prisoner. He has brought it upon himself, it will be urged; but that remains to be seen, and will not be known till he is tried; and till it is known you have no right to take it for granted, and to punish him as if it were proved.

There seems to be in the minds of some gentlemen a notion, that when once a person is in prison, it is of little consequence how he is treated afterwards. The tyranny which prevailed, of putting a person in a particular dress before trial, now abolished by act of Parliament, was justified by this train of reasoning:—The man has been rendered infamous by imprisonment. He cannot be rendered more so, dress him as you will. His character is not rendered worse by the treadmill, than it is by being sent to the place where the treadmill is at work. The substance of this way of thinking is, that when a fellow-creature is in the frying pan, there is no harm in pushing him into the fire; that a little more misery—a little more infamy—a few more links, are of no sort of consequence in a prison-life. If this monstrous style of reasoning extended to hospitals as well as prisons, there would be no harm in break-

ing the small bone of a man's leg, because the large one was fractured, or in peppering with small shot a person who was wounded with a cannon-ball. The principle is, because a man is very wretched, there is no harm in making him a little more so. The steady answer to all this is, that a man is imprisoned before trial, *solely* for the purpose of securing his appearance at his trial; and that no punishment nor privation, not clearly and candidly necessary for that purpose, should be inflicted upon him. I keep you in prison, because criminal justice would be defeated by your flight, if I did not: but criminal justice can go on very well without degrading you to hard and infamous labour, or denying you any reasonable gratification. For these reasons, the first of those acts is just, the rest are mere tyranny.

Mr. Nicoll, in his opinion, tells us, that he has no doubt Parliament would amend the bill, if the omission was stated to them. We, on the contrary, have no manner of doubt that Parliament would treat such a petition with the contempt it deserved. Mr. Peel is too much enlightened and sensible to give any countenance to such a great and glaring error. In this case,—and we wish it were a more frequent one—the wisdom comes from within, and the error from without the walls of Parliament.

A prisoner before trial who can support himself, ought to be allowed every fair and rational enjoyment which he can purchase, not incompatible with prison discipline. He should be allowed to buy ale or wine in moderation,—to use tobacco, or any thing else he can pay for within the above-mentioned limits. If he cannot support himself, and declines work, then he should be supported upon a very plain, but still a plentiful diet (something better, we think, than bread and water); and all prisoners before trial should be *allowed* to work. By a liberal share of earnings (or rather by rewards, for there would be no earnings), and also by an improved diet, and in the hands of humane magistrates,* there would soon appear to be no necessity for appealing to the treadmill till trial was over.

* All magistrates should remember, that nothing is more easy to a person entrusted with power than to convince himself it is his duty to treat his fellow-creatures with severity and rigour,—and then to persuade himself that he is doing it very reluctantly, and contrary to his real feeling.

This treadmill, after trial, is certainly a very excellent method of punishment, as far as we are yet acquainted with its effects. We think, at present, however, it is a little abused; and hereafter it is our intention to express our opinion upon the limits to which it ought to be confined. Upon this point, however, we do not much differ from Mr. Headlam; although, in his remarks on the treatment of prisoners before trial, we think he has made a very serious mistake, and has attempted (without knowing what he was doing, and meaning, we are persuaded, nothing but what was honest and just) to pluck up one of the ancient landmarks of human justice.*

* We hope this article will conciliate our old friend Mr. Roscoe; who is very angry with us for some of our former lucubrations on prison discipline,—and, above all, because we are not grave enough for him. The difference is thus stated:—Six ducks are stolen. Mr. Roscoe would commit the man to prison for six weeks, perhaps,—reason with him, argue with him, give him tracts, send clergymen to him, work him gently at some useful trade, and try to turn him from the habit of stealing poultry. *We* would keep him hard at work twelve hours every day at the treadmill, feed him only so as not to impair his health, and then give him as much of Mr. Roscoe's system as was compatible with our own; and we think our method would diminish the number of duck-stealers more effectually than that of the historian of Leo X. The primary duck-stealer would, we think, be as effectually deterred from repeating the offence by the terror of our imprisonment, as by the excellence of Mr. Roscoe's education—and, what is of infinitely greater consequence, innumerable duck-stealers would be prevented. Because punishment does not annihilate crime, it is folly to say it does not lessen it. It did not stop the murder of Mrs. Donatty; but how many Mrs. Donattys has it kept alive! When we recommend severity, we recommend, of course, that degree of severity which will not excite compassion for the sufferer, and lessen the horror of the crime. This is why we do not recommend torture and amputation of limbs. When a man has been proved to have committed a crime, it is expedient that society should make use of that man for the diminution of crime: he belongs to them for that purpose. Our primary duty, in such a case, is so to treat the culprit that many other persons may be rendered better, or prevented from being worse by dread of the same treatment; and, making this the principal object, to combine with it as much as possible the improvement of the individual. The ruffian who killed Mr. Mumford was hung within forty-eight hours. Upon Mr. Roscoe's principles, this was wrong; for it certainly was not the way to reclaim the man:—We say, on the contrary, the object was to do any thing with the man which would render murders less frequent, and that the conversion of the man was a mere trifle compared to this. His death probably pre-

vented the necessity of reclaiming a dozen murderers. That death will not, indeed, prevent all murders in that county; but many who have seen it, and many who have heard of it, will swallow their revenge from the dread of being hanged. Mr. Roscoe is very severe upon our style; but poor dear Mr. Roscoe should remember that men have different tastes, and different methods of going to work. We feel these matters as deeply as he does. But why so cross upon this or any other subject?

AMERICA. (Edinburgh Review, 1824.)

1. *Travels through Part of the United States and Canada, in* 1818 *and* 1819. By John M. Duncan, A. B. Glasgow, 1823.
2. *Letters from North America, written during a Tour in the United States and Canada.* By Adam Hodgson. London, 1824.
3. *An Excursion through the United States and Canada, during the years* 1822–3. By an English Gentleman. London, 1824.

There is a set of miserable persons in England, who are dreadfully afraid of America and every thing American—whose great delight is to see that country ridiculed and vilified—and who appear to imagine that all the abuses which exist in this country acquire additional vigour and chance of duration from every book of travels which pours forth its venom and falsehood on the United States. We shall from time to time call the attention of the public to this subject, not from any party spirit, but because we love truth, and praise excellence wherever we find it; and because we think the example of America will in many instances tend to open the eyes of Englishmen to their true interests.

The *economy* of America is a great and important object for our imitation. The salary of Mr. Bagot, our late ambassador, was, we believe, rather higher than that of the President of the United States. The vice-president receives rather less than the second clerk of the House of Commons; and all salaries, civil and military, are upon the same scale; and yet no country is better served than America! Mr. Hume has at last persuaded the English people to look a little into their accounts, and to see how sadly they are plundered. But we ought to suspend our contempt for America, and consider whether we have not a very momentous lesson to learn from this wise and cautious people on the subject of economy.

A lesson upon the importance of religious toleration, we are determined, it would seem, *not* to learn,—either from

America, or from any other quarter of the globe. The High Sheriff of New York, last year, was a Jew. It was with the utmost difficulty that a bill was carried this year to allow the first Duke of England to carry a gold stick before the king—because he was a Catholic!—and yet we think ourselves entitled to indulge in impertinent sneers at America,—as if civilization did not depend more upon making wise laws for the promotion of human happiness, than in having good inns, and post-horses, and civil waiters. The circumstances of the Dissenters' marriage bill are such as would excite the contempt of a Choctaw or Cherokee, if he could be brought to understand them. A certain class of Dissenters beg they may not be compelled to say that they marry in the name of the Trinity, because they do not believe in the Trinity. Never mind, say the corruptionists, you must go on saying you marry in the name of the Trinity, whether you believe in it or not. We know that such a protestation from you will be false: but, unless you make it, your wives shall be concubines, and your children illegitimate. Is it possible to conceive a greater or more useless tyranny than this?

'In the religious freedom which America enjoys, I see a more unquestioned superiority. In Britain we enjoy toleration, but here they enjoy liberty. If government has a right to grant toleration to any particular set of religious opinions, it has also a right to take it away; and such a right with regard to opinions exclusively religious I would deny in all cases, because totally inconsistent with the nature of religion, in the proper meaning of the word, and equally irreconcilable with civil liberty, rightly so called. God has given to each of us his inspired word, and a rational mind to which that word is addressed. He has also made known to us, that each for himself must answer at his tribunal for his principles and conduct. What man, then, or body of men, has a right to tell me, "You do not think aright on religious subjects, but we will tolerate your error?" The answer is a most obvious one, "Who gave you authority to dictate?—or what exclusive claim have you to infallibility?" If my sentiments do not lead me into conduct inconsistent with the welfare of my fellow-creatures, the question as to their accuracy or fallacy is one between God and my own conscience; and, though a fair subject for argument, is none for compulsion.

'The Inquisition undertook to regulate astronomical science, and kings and parliaments have with equal propriety presumed to legislate upon questions of theology. The world has outgrown the former, and it will one day be ashamed that it has been so long of outgrowing the latter. The founders of the American republic saw the absurdity of employing the attorney-general to refute deism and infidelity, or of attempting to influence opinion on abstract subjects by penal enact-

ment; they saw also the injustice of taxing the whole to support the religious opinions of the few, and have set an example which older governments will one day or other be compelled to follow.

'In America the question is not, What is his creed?—but, what is his conduct? Jews have all the privileges of Christians; Episcopalians, Presbyterians, and Independents, meet on common ground. No religious test is required to qualify for public office, except in some cases a mere verbal assent to the truth of the Christian religion; and in every court throughout the country, it is optional whether you give your affirmation or your oath.'—*Duncan's Travels*, II. 328—330.

In fact, it is hardly possible for any nation to show a greater superiority over another than the Americans, in this particular, have done over this country. They have fairly and completely, and probably for ever, extinguished that spirit of religious persecution which has been the employment and the curse of mankind for four or five centuries, not only that persecution which imprisons and scourges for religious opinions, but the tyranny of incapacitation, which, by disqualifying from civil offices, and cutting a man off from the lawful objects of ambition, endeavours to strangle religious freedom in silence, and to enjoy all the advantages, without the blood, and noise, and fire of persecution. What passes in the mind of one mean blockhead is the general history of all persecution. 'This man pretends to know better than me—I cannot subdue him by argument; but I will take care he shall never be mayor or alderman of the town in which he lives; I will never consent to the repeal of the test act or to Catholic emancipation; I will teach the fellow to differ from me in religious opinions!' So says the Episcopalian to the Catholic—and so the Catholic says to the Protestant. But the wisdom of America keeps them all down—secures to them all their just rights—gives to each of them their separate pews, and bells, and steeples—makes them all aldermen in their turns—and quietly extinguishes the faggots which each is preparing for the combustion of the other. Nor is this indifference to religious subjects in the American people, but pure civilization—a thorough comprehension of what is best calculated to secure the public happiness and peace—and a determination that this happiness and peace shall not be violated by the insolence of any human being, in the garb, and under the sanction, of religion. In this particular, the Americans are at the head of all the nations of the world: and at

the same time they are, especially in the Eastern and Midland States, so far from being indifferent on subjects of religion, that they may be most justly characterized as a very religious people: but they are devout without being unjust (the great problem in religion); an higher proof of civilization than painted tea-cups, water-proof leather, or broadcloth at two guineas a yard.

America is exempted, by its very newness as a nation, from many of the evils of the old governments of Europe. It has no mischievous remains of feudal institutions, and no violations of political economy sanctioned by time, and older than the age of reason. If a man finds a partridge upon his ground eating his corn, in any part of Kentucky or Indiana, he may kill it, even if his father is not a doctor of divinity. The Americans do not exclude their own citizens from any branch of commerce which they leave open to all the rest of the world.

'One of them said, that he was well acquainted with a British subject, residing at Newark, Upper Canada, who annually smuggled from 500 to 1000 chests of tea into that province from the United States. He mentioned the name of this man, who he said was growing very rich in consequence; and he stated the manner in which the fraud was managed. Now, as all the tea ought to be brought from England, it is of course very expensive; and therefore the Canadian tea dealers, after buying one or two chests at Montreal or elsewhere, which have the custom-house mark upon them, fill them up ever afterwards with tea brought from the United States. It is calculated that near 10,000 chests are annually consumed in the Canadas, of which not more than 2000 or 3000 come from Europe. Indeed, when I had myself entered Canada, I was told that of every fifteen pounds of tea sold there thirteen were smuggled. The profit upon smuggling this article is from 50 to 100 per cent., and with an extensive and wild frontier like Canada, cannot be prevented. Indeed it every year increases, and is brought to a more perfect system. But I suppose that the English government, which is the perfection of wisdom, will never allow the Canadian merchants to trade direct to China, in order that (from pure charity) the whole profit of the tea trade may be given up to the United States.'—*Excursion*, pp. 394, 395.

'You will readily conceive, that it is with no small mortification that I hear these American merchants talk of sending their ships to London and Liverpool, to take in goods or specie, with which to purchase tea for the supply of European ports, almost within sight of our own shores. They often taunt me, asking me what our government can possibly mean by prohibiting us from engaging in a profitable trade, which is open to them and to all the world? or where can be our boasted liberties, while we tamely submit to the infraction of our

natural rights, to supply a monopoly as absurd as it is unjust, and to humour the caprice of a company who exclude their fellow-subjects from a branch of commerce which they do not pursue themselves, but leave to the enterprise of foreigners, or commercial rivals? On such occasions I can only reply, that both our government and people are growing wiser; and that if the charter of the East India Company be renewed, when it next expires, I will allow them to infer, that the people of England have little influence in the administration of their own affairs.'—*Hodgson's Letters*, II. 128, 129.

Though America is a confederation of republics, they are in many cases much more amalgamated than the various parts of Great Britain. If a citizen of the United States can make a shoe, he is at liberty to make a shoe any where between Lake Ontario and New Orleans,—he may sole on the Mississippi—heel on the Missouri—measure Mr. Birkbeck on the little Wabash, or take (which our best politicians do not find an easy matter), the length of Munroe's foot on the banks of the Potomac. But wo to the cobbler, who, having made Hessian boots for the aldermen of Newcastle, should venture to invest with these coriaceous integuments the leg of a liege subject at York. A yellow ant in a nest of red ants—a butcher's dog in a fox-kennel—a mouse in a bee-hive,—all feel the effects of untimely intrusion;—but far preferable their fate to that of the misguided artisan, who, misled by sixpenny histories of England, and conceiving his country to have been united at the Heptarchy, goes forth from his native town to stitch freely within the sea-girt limits of Albion. Him the mayor, him the alderman, him the recorder, him the quarter sessions would worry. Him the justices before trial would long to get into the treadmill;* and

* This puts us in mind of our friend Mr. Headlam, who, we hear, has written an answer to our Observations on the Treadmill, before Trial. It would have been a very easy thing for us to have hung Mr. Headlam up as a spectacle to the United Kingdoms of England, Scotland, and Ireland, the principality of Wales, and the town of Berwick-on-Tweed; but we have no wish to make a worthy and respectable man ridiculous. For these reasons we have not even looked at his pamphlet, and we decline entering into a controversy upon a point, where, among men of sense and humanity (who have not heated themselves in the dispute), there cannot possibly be any difference of opinion. All members of both houses of Parliament were unanimous in their condemnation of the odious and nonsensical practice of working prisoners in the treadmill before trial. It had not one single advocate. Mr. Headlam and the magistrates of the North Riding, in their eagerness to save a relic of their prison system, forgot themselves so far as to petition to be entrusted with the power of putting prison-

would much lament that, by a recent act, they could not do so, even with the intruding tradesman's consent; but the moment he was tried, they would push him in with redoubled energy, and leave him to tread himself into a conviction of the barbarous institutions of his corporation-divided country.

Too much praise cannot be given to the Americans for their great attention to the subject of education. All the public lands are surveyed according to the direction of Congress. They are divided into townships of six miles square, by lines running with the cardinal points, and consequently crossing each other at right angles. Every township is divided into 36 sections, each a mile square, and containing 640 acres. One section in each township is reserved, and given in perpetuity for the benefit of common schools. In addition to this, the states of Tennessee and Ohio have received grants for the support of colleges and academies. The appropriation generally in the new states for seminaries of the higher orders, amounts to one-fifth of those for common schools. It appears from Seybert's Statistical Annals, that the land in the states and territories on the east side of the Mississippi, in which appropriations have been made, amounts to 237,300 acres; and according to the ratio above mentioned, the aggregate on the east side of the Mississippi is 7,900,000. The same system of appropriation applied to the west, will make, for schools and colleges, 6,600,000; and the total appropriation for literary purposes, in the new states and territories, 14,500,000 acres, which, at two dollars per acre, would be 29,000,000 dollars. These facts are very properly quoted by Mr. Hodgson; and it is impossible to speak too highly of their value and importance. They quite put into the back ground every thing which has been done in the Old World for the improvement of the lower orders, and confer deservedly upon the Americans the character of a wise, a reflecting, and a virtuous people.

ers to work before trial, *with their own consent*—the legislature was, 'We will not trust you,'—the severest practical rebuke ever received by any public body. We will leave it to others to determine whether it was deserved. We have no doubt the great body of magistrates meant well. They *must* have meant well—but they have been sadly misled, and have thrown odium on the subordinate administration of justice, which it is far from deserving on other occasions, in their hands. This strange piece of nonsense is, however, now well ended. —*Requiescat in pace!*

It is rather surprising that such a people, spreading rapidly over so vast a portion of the earth, and cultivating all the liberal and useful arts so successfully, should be so extremely sensitive and touchy as the Americans are said to be. We really thought at one time they would have fitted out an armament against the Edinburgh and Quarterly Reviews, and burnt down Mr. Murray's and Mr. Constable's shops, as we did the American Capitol. We, however, remember no other anti-American crime of which we were guilty, than a preference of Shakspeare and Milton over Joel Barlow and Timothy Dwight. That opinion we must still take the liberty of retaining. There is nothing in Dwight comparable to the finest passages of Paradise Lost, nor is Mr. Barlow ever humorous or pathetic, as the great bard of the English stage is humorous and pathetic. We have always been strenuous* advocates for, and admirers of, America—not taking our ideas from the overweening vanity of the weaker part of the Americans themselves, but from what we have observed of their real energy and wisdom. It is very natural that we Scotch, who live in a little shabby scraggy corner of a remote island, with a climate which cannot ripen an apple, should be jealous of the aggressive pleasantry of more favoured people; but that Americans, who have done so much for themselves, and received so much from nature, should be flung into such convulsions by English reviews and magazines, is really a sad specimen of Columbian juvenility. We hardly dare to quote the following account of an American route, for fear of having our motives misrepresented,—and strongly suspect that there are but few Americans who could be brought to admit that a Philadelphia or Boston concern of this nature is not quite equal to the most brilliant assemblies of London or Paris.

* Ancient women, whether in or out of breeches will of course imagine that we are the enemies of the institutions of our country, because we are the admirers of the institutions of America: but circumstances differ. American institutions are too new, English institutions are ready made to our hands. If we were to build the house afresh, we might perhaps avail ourselves of the improvements of a new plan; but we have no sort of wish to pull down an excellent house, strong, warm, and comfortable, because, upon second trial, we might be able to alter and amend it,—a principle which would perpetuate demolition and construction. Our plan, where circumstances are tolerable, is to sit down and enjoy ourselves.

'A tea party is a serious thing in this country; and some of those at which I have been present in New York and elsewhere, have been on a very large scale. In the modern houses the two principal apartments are on the first floor, and communicated by large folding doors, which on gala days throw wide their ample portals, converting the two apartments into one. At the largest party which I have seen, there were about thirty young ladies present, and more than as many gentlemen. Every sofa, chair, and footstool, were occupied by the ladies, and little enough room some of them appeared to have after all. The gentlemen were obliged to be content with walking up and down, talking now with one lady, now with another. Tea was brought in by a couple of blacks, carrying large trays, one covered with cups, the other with cake. Slowly making the round, and retiring at intervals for additional supplies, the ladies were gradually gone over; and after much patience the gentlemen began to enjoy the beverage "which cheers but not inebriates;" still walking about, or leaning against the wall, with the cup and saucer in their hand.

'As soon as the first course was over, the hospitable trays again entered, bearing a chaos of preserves—peaches, pineapples, ginger, oranges, citrons, pears, &c. in tempting display. A few of the young gentlemen now accompanied the revolution of the trays, and sedulously attended to the pleasure of the ladies. The party was so numerous that the period between the commencement and the termination of the round, was sufficient to justify a new solicitation; and so the ceremony continued, with very little intermission, during the whole evening. Wine succeeded the preserves, and dried fruit followed the wine; which, in its turn, was supported by sandwiches in name of supper, and a forlorn hope of confectionary and frost work. I pitied the poor blacks who, like Tantalus, had such a profusion of dainties the whole evening at their finger ends, without the possibility of partaking of them. A little music and dancing gave variety to the scene; which to some of us was a source of considerable satisfaction; for when a number of ladies were on the floor, those who cared not for the dance had the pleasure of getting a seat. About eleven o'clock I did myself the honour of escorting a lady home, and was well pleased to have an excuse for escaping.'—*Duncan's Travels*, II. 279, 280.

The coaches must be given up; so must the roads, and so must the inns. They are of course what these accommodations are in all new countries; and much like what English great-grandfathers talk about as existing in this country at the first period of their recollection. The great inconvenience of American inns, however, in the eyes of an Englishman, is one which more sociable travellers must feel less acutely—we mean the impossibility of being alone, of having a room separate from the rest of the company. There is nothing which an Englishman enjoys more than the pleasure of sulkiness,—of not being forced to hear a word from any body

which may occasion to him the necessity of replying. It is not so much that Mr. Bull disdains to talk, as that Mr. Bull has nothing to say. His forefathers have been out of spirits for six or seven hundred years, and, seeing nothing but fog and vapour, he is out of spirits too; and when there is no selling or buying, or no business to settle, he prefers being alone and looking at the fire. If any gentleman was in distress, he would willingly lend an helping hand; but he thinks it no part of neighbourhood to talk to a person because he happens to be near him. In short, with many excellent qualities, it must be acknowledged that the English are the most disagreeable of all the nations of Europe,—more surly and morose, with less disposition to please, to exert themselves for the good of society, to make small sacrifices, and to put themselves out of their way. They are content with Magna Charta and trial by jury: and think they are not bound to excel the rest of the world in small behaviour, if they are superior to them in great institutions.

We are terribly afraid that some Americans spit upon the floor, even when that floor is covered by good carpets. Now, all claims to civilization are suspended till this secretion is otherwise disposed of. No English gentleman has spit upon the floor since the Heptarchy.

The curiosity for which the Americans are so much laughed at, is not only venial, but laudable. Where men live in woods and forests, as is the case, of course, in remote American settlements, it is the duty of every man to gratify the inhabitants by telling them his name, place, age, office, virtues, crimes, children, fortune, and remarks: and with fellow-travellers, it seems to be almost a matter of necessity to do so. When men ride together for 300 or 400 miles through the woods and prairies, it is of the greatest importance that they should be able to guess at subjects most agreeable to each other, and to multiply their common topics. Without knowing who your companion is, it is difficult to know both what to say and what to avoid. You may talk of honour and virtue to an attorney, or contend with a Virginia planter that men of a fair colour have no right to buy and sell men of a dusky colour. The following is a lively description of the rights of interrogation, as understood and practised in America.

'As for the *inquisitiveness* of the Americans, I do not think it has been at all exaggerated.—They certainly are, as they profess to be, a

very inquiring people; and if we may sometimes be disposed to dispute the claims of their *love of knowing* to the character of a liberal curiosity, we must at least admit that they make a most liberal use of every means in their power to gratify it. I have seldom, however, had any difficulty in repressing their home questions, if I wished it, and without offending them; but I more frequently amused myself by putting them on the rack, civilly, and apparently unconsciously, eluded their inquiries for a time, and then awakening their gratitude by such a discovery of myself as I might choose to make. Sometimes a man would place himself at my side in the wilderness, and ride for a mile or two without the smallest communication between us, except a slight nod of the head. He would then, perhaps, make some grave remark on the weather, and if I assented, in a monosyllable, he would stick to my side for another mile or two, when he would commence his attack. "I reckon, stranger, you do not belong to these parts?"—"No, sir; I am not of Alabama."—"I guess you are from the north?"—"No, sir; I am not from the north."—"I guess you found the roads mighty muddy, and the creeks swimming. You are come a long way, I guess?"—"No, not so very far; we have travelled a few hundred miles since we turned our faces westward."—"I guess you have seen Mr. ——, or General ——?" (mentioning the names of some well-known individuals in the middle and southern states, who were to serve as guide-posts to detect our route); but, "I have not the pleasure of knowing any of them," or, "I have the pleasure of knowing all," equally defeated his purpose, but not his hopes. "I reckon, stranger, you have had a good crop of cotton this year?"—"I am told, sir, the crops have been unusually abundant in Carolina and Georgia."—"You grow tobacco, then, I guess?" (to track me to Virginia). "No; I do not grow tobacco." Here a modest inquirer would give up in despair, and trust to the chapter of accidents to develope my name and history; but I generally rewarded his modesty, and excited his gratitude, by telling him I would torment him no longer.

'The courage of a thorough-bred Yankee* would rise with his difficulties; and after a decent interval, he would resume: "I hope no offence, sir; but you know we Yankees lose nothing for want of asking. I guess, stranger, you are from the old country?"—"Well, my friend, you have guessed right at last, and I am sure you deserve something for your perseverance; and now I suppose it will save us both trouble if I proceed to the second part of the story, and tell you where I am going. I am going to New Orleans." This is really no exaggerated picture: dialogues, not indeed in these very words, but *to this effect*, occurred continually; and some of them more minute and extended than I can venture upon in a letter. I ought, however, to say, that many questions lose much of their familiarity when travelling in the wilderness. "Where are you from?" and "whither are you bound?" do not appear impertinent interrogations at sea; and often in the western wilds I found myself making inquiries which I

* 'In America, the term Yankee is applied to the natives of New England only, and is generally used with an air of pleasantry.'

should have thought very free and easy at home.'—*Hodgson's Letters*, II. 32—35.

In all new and distant settlements the forms of law must, of course, be very limited. No justice's warrant is current in the dismal swamp; constables are exceedingly puzzled in the neighbourhood of the Mississippi; and there is no treadmill, either before or after trial, on the Little Wabash. The consequence of this is, that the settlers take the law into their own hands, and give notice to a justice-proof delinquent to quit the territory—if this notice is disobeyed, they assemble and whip the culprit, and this failing, on the second visit, they cut off his ears. In short, Captain Rock has his descendants in America. Mankind cannot live together without some approximation to justice; and if the actual government will not govern well, or cannot govern well, is too wicked or to weak to do so —then men prefer Rock to anarchy. The following is the best account we have seen of this system of irregular justice.

'After leaving Carlyle, I took the Shawneetown road, that branches off to the S. E., and passed the Walnut Hills, and Moore's Prairie. These two places had a year or two before been infested by a notorious gang of robbers and forgers, who had fixed themselves in these wild parts in order to avoid justice. As the country became more settled, these desperadoes became more and more troublesome. The inhabitants, therefore, took that method of getting rid of them that had been adopted not many years ago in Hopkinson and Henderson counties, Kentucky, and which is absolutely necessary in new and thinly settled districts, where it is almost impossible to punish a criminal according to legal forms.

'On such occasions, therefore, all the quiet and industrious men of a district form themselves into companies, under the name of "Regulators." They appoint officers, put themselves under their orders, and bind themselves to assist and stand by each other. The first step they then take is to send notice to any notorious vagabonds, desiring them to quit the state in a certain number of days, under the penalty of receiving a domiciliary visit. Should the person who receives the notice refuse to comply, they suddenly assemble, and when unexpected, go in the night time to the rogue's house, take him out, tie him to a tree, and give him a severe whipping, every one of the party striking him a certain number of times.

'This discipline is generally sufficient to drive off the culprit; but should he continue obstinate, and refuse to avail himself of another warning, the Regulators pay him a second visit, inflict a still severer whipping, with the addition probably of cutting off both his ears. No culprit has ever been known to remain after a second visit. For instance, an old man, the father of a family, all of whom he educated as robbers, fixed himself at Moore's Prairie, and committed numerous

thefts, &c. &c. He was hard enough to remain after the first visit, when both he and his sons received a whipping. At the second visit the Regulators punished him very severely, and cut off his ears. This drove him off, together with his whole gang; and travellers can now pass in perfect safety where it was once dangerous to travel alone.

'There is also a company of Regulators near Vincennes, who have broken up a notorious gang of coiners and thieves who had fixed themselves near that place. These rascals, before they were driven off, had parties settled at different distances in the woods, and thus held communication and passed horses and stolen goods from one to another, from the Ohio to Lake Erie, and from thence into Canada or the New England States. Thus it was next to impossible to detect the robbers, or to recover the stolen property.

'This practice of *Regulating* seems very strange to an European. I have talked with some of the chief men of the Regulators, who all lamented the necessity of such a system. They very sensibly remarked, that when the country became more thickly settled, there would no longer be any necessity for such proceedings, and that they should all be delighted at being able to obtain justice in a more formal manner. I forgot to mention, that the rascals punished have sometimes prosecuted the Regulators for an assault. The juries, however, knowing the bad character of the prosecutors, would give but trifling damages, which, divided among so many, amounted to next to nothing for each individual.'—*Excursion,* pp. 233—236.

This same traveller mentions his having met at table three or four American ex-kings—presidents who had served their time, and had retired into private life; he observes also upon the effect of a democratical government in preventing mobs. Mobs are created by opposition to the wishes of the people: —but when the wishes of the people are consulted so completely as they are consulted in America—all motives for the agency of mobs are done away.

'It is, indeed, entirely a government of opinion. Whatever the people wish is done. If they want any alteration of laws, tariffs, &c., they inform their representatives, and if there be a majority that wish it, the alteration is made at once. In most European countries there is a portion of the population denominated the *mob*, who, not being acquainted with real liberty, give themselves up to occasional fits of licentiousness. But in the United States there is no *mob*, for every man feels himself free. At the time of Burr's conspiracy, Mr. Jefferson said, that there was little to be apprehended from it, as every man felt himself a part of the general sovereignty. The event proved the truth of this assertion; and Burr, who in any other country would have been hanged, drawn, and quartered, is at present leading an obscure life in the city of New York, despised by every one.'—*Excursion,* p. 70.

It is a real blessing for America to be exempted from that vast burthen of taxes, the consequences of a long series of foolish, just and necessary wars, carried on to please kings and queens, or the waiting maids and waiting lords and gentlemen, who have always governed kings and queens in the Old World. The Americans owe this good to the newness of their government; and though there are few classical associations, or historical recollections in the United States, this barrenness is well purchased by the absence of all the feudal nonsense, inveterate abuses, and profligate debts of an old country.

'The good effects of a free government are visible throughout the whole country. There are no tithes, no poor-rates, no excise, no heavy internal taxes, no commercial monopolies. An American can make candles if he have tallow, can distil brandy if he have grapes or peaches, and can make beer if he have malt and hops, without asking leave of any one, and much less with any fear of incurring punishment. How would a farmer's wife there be astonished, if told that it was contrary to law for her to make soap out of the potass obtained on the farm, and of the grease she herself had saved! When an American has made these articles, he may build his little vessel, and take them without hinderance to any part of the world; for there is no rich company of merchants that can say to him, "You shall not trade to India; and you shall not buy a pound of tea of the Chinese; as, by so doing, you would infringe upon our privileges." In consequence of this freedom, all the seas are covered with their vessels, and the people at home are active and independent. I never saw a beggar in any part of the United States; nor was I ever asked for charity but once—and that was by an Irishman.'—*Excursion*, pp. 70, 71.

America is so differently situated from the old governments of Europe, that the United States afford no political precedents that are exactly applicable to our old governments. There is no idle and discontented population. When they have peopled themselves up to the Mississippi, they cross to the Missouri, and will go on until they are stopped by the Western Ocean; and then, when there are a number of persons who have nothing to do, and nothing to gain, no hope for lawful industry and great interest in promoting changes, we may consider their situation as somewhat similar to our own, and their example as touching us more nearly. The changes in the constitution of the particular states seem to be very frequent, very radical, and to us very alarming;—they seem, however, to be thought very little of in that country, and to be very little heard

of in Europe. Mr. Duncan, in the following passage, speaks of them with European feelings.

'The other great obstacle to the prosperity of the American nation, universal suffrage,* will not exhibit the full extent of its evil tendency for a long time to come; and it is possible that ere that time some antidote may be discovered, to prevent or alleviate the mischief which we might naturally expect from it. It does, however, seem ominous of evil, that so little ceremony is at present used with the constitutions of the various states. The people of Connecticut, not contented with having prospered abundantly under their old system, have lately assembled a convention, composed of delegates from all parts of the country, in which the former order of things has been condemned entirely, and a completely new constitution manufactured; which, among other things, provides for the same process being again gone through, as soon as the *profanum vulgus* takes it into his head to desire it.† A sorry legacy the British Constitution would be to us, if it were at the mercy of a meeting of delegates, to be summoned whenever a majority of the people took a fancy for a new one; and I am afraid, that if the Americans continue to cherish a fondness for such repairs, the Highlandman's pistol, with its new stock, lock, and barrel, will bear a close resemblance to what is ultimately produced.'—*Duncan's Travels*, II. 335, 336.

In the Excursion there is a list of the American navy, which, in conjunction with the navy of France, will one day or another, we fear, settle the Catholic question in a way not quite agreeable to the Earl of Liverpool for the time being, nor very creditable to the wisdom of those ancestors of whom we hear, and from whom we suffer so much. The regulations of the American navy seem to be admirable. The states are making great exertions to increase this navy; and since the capture of so many English ships, it has become the favourite science of the people at large. Their flotillas on the lakes completely defeated ours during the last war.

Fanaticism of every description seems to rage and flourish in America, which has no establishment, in about the same degree which it does here under the nose of an established church;—they have their prophets and prophetesses, their preaching encampments, female preachers, and every variety

* In the greater number of the States, every white person, 21 years of age, who has paid taxes for one year, is a voter; in others, some additional qualifications are required, but they are not such as materially to limit the privilege.

† The people of the State of New York have subsequently taken a similar fancy to *clout the cauldron.* (1822.)

of noise, folly, and nonsense, like ourselves. Among the most singular of these fanatics, are the Harmonites. Rapp, their founder, was a dissenter from the Lutheran church, and therefore, of course, the Lutheran clergy of Stutgard (near to which he lived) began to put Mr. Rapp in white sheets, to prove him guilty of theft, parricide, treason, and all the usual crimes of which men dissenting from established churches are so often guilty,—and delicate hints were given respecting faggots! Stutgard abounds with underwood and clergy; and—away went Mr. Rapp to the United States, and, with a great multitude of followers, settled about twenty-four miles from our countryman, Mr. Birkbeck. His people have here built a large town, and planted a vineyard, where they make very agreeable wine. They carry on also a very extensive system of husbandry, and are the masters of many flocks and herds. They have a distillery, brewery, tannery, make hats, shoes, cotton and woollen cloth, and every thing necessary to the comfort of life. Every one belongs to some particular trade. But in bad weather, when there is danger of losing their crops, Rapp blows a horn, and calls them all together. Over every trade there is a head man, who receives the money and gives a receipt, signed by Rapp, to whom all the money collected is transmitted. When any of these workmen wants a hat or a coat, Rapp signs him an order for the garment, for which he goes to the store, and is fitted. They have one large store where these manufactures are deposited. This store is much resorted to by the neighbourhood, on account of the goodness and cheapness of the articles. They have built an excellent house for their founder, Rapp,—as it might have been predicted they would have done. The Harmonites profess equality, community of goods, and celibacy; for the men and women (let Mr. Malthus hear this) live separately, and are not allowed the slightest intercourse. In order to keep up their numbers, they have once or twice sent over for a supply of Germans, as they admit no Americans, of any intercourse with whom they are very jealous. Harmonites dress and live plainly. It is a part of their creed that they should do so. Rapp, however, and the head men have no such particular creed for themselves; and indulge in wine, beer, grocery, and other irreligious diet. Rapp is both governor and priest,—preaches to them in church, and directs all their proceedings in their working hours. In short, Rapp seems to have made use of

the religious propensities of mankind, to persuade one or two thousand fools to dedicate their lives to his service; and if they do not get tired, and fling their prophet into a horse-pond, they will in all probability disperse as soon as he dies.

Unitarians are increasing very fast in the United States, not being kept down by charges from bishops and archdeacons, their natural enemies.

The author of the Excursion remarks upon the total absence of all games in America. No cricket, foot-ball, nor leap-frog—all seems solid and profitable.

'One thing that I could not help remarking with regard to the Americans in general, is the total want of all those games and sports that obtained for our country the appellation of "Merry England." Although children usually transmit stories and sports from one generation to another, and although many of our nursery games and tales are supposed to have been imported into England in the vessels of Hengist and Horsa, yet our brethren in the United States seem entirely to have forgotten the childish amusements of our common ancestors. In America I never saw even the schoolboys playing at any game whatsoever. Cricket, foot-ball, quoits, &c., appear to be utterly unknown; and I believe that if an American were to see grown-up men playing at cricket, he would express as much astonishment as the Italians did when some Englishmen played at this finest of all games in the Cascina at Florence. Indeed, that joyous spirit which, in our country, animates not only childhood, but also maturer age, can rarely or never be seen among the inhabitants of the United States.'—*Excursion*, pp. 502, 503.

These are a few of the leading and prominent circumstances respecting America, mentioned in the various works before us: of which works we can recommend the Letters of Mr. Hudson, and the Excursion into Canada, as sensible, agreeable books, written in a very fair spirit.

America seems, on the whole, to be a country possessing vast advantages, and little inconveniences; they have a cheap government, and bad roads; they pay no tithes, and have stage-coaches without springs. They have no poor laws and no monopolies—but their inns are inconvenient, and travellers are teased with questions. They have no collections in the fine arts; but they have no lord-chancellor, and they can go to law without absolute ruin. They cannot make Latin verses, but they expend immense sums in the education of the poor. In all this the balance is prodigiously in their favour: but then comes the great disgrace and danger of America—the existence of slavery, which, if not timously corrected, will one day entail

(and ought to entail) a bloody servile war upon the Americans—which will separate America into slave states and states disclaiming slavery, and which remains at present as the foulest blot in the moral character of that people. An high-spirited nation, who cannot endure the slightest act of foreign aggression, and who revolt at the very shadow of domestic tyranny—beat with cart-whips, and bind with chains, and murder for the merest trifles, wretched human beings who are of a more dusky colour than themselves; and have recently admitted into their Union a new state, with the express permission of ingrafting this atrocious wickedness into their constitution! No one can admire the simple wisdom and manly firmness of the Americans more than we do, or more despise the pitiful propensity which exists among government runners to vent their small spite at their character; but on the subject of slavery, the conduct of America is, and has been, most reprehensible. It is impossible to speak of it with too much indignation and contempt; but for it, we should look forward with unqualified pleasure to such a land of freedom, and such a magnificent spectacle of human happiness.

BENTHAM ON FALLACIES. (Edinburgh Review, 1825.)

The Book of Fallacies: from Unfinished Papers of Jeremy Bentham. By a Friend. London, J. and H. L. Hunt. 1824.

There are a vast number of absurd and mischievous fallacies, which pass readily in the world for sense and virtue, while in truth they tend only to fortify error and encourage crime. Mr. Bentham has enumerated the most conspicuous of these in the book before us.

Whether it is necessary there should be a middleman between the cultivator and possessor, learned economists have doubted; but neither gods, men, nor booksellers can doubt the necessity of a middleman between Mr. Bentham and the public. Mr. Bentham is long; Mr. Bentham is occasionally involved and obscure; Mr. Bentham invents new and alarming expressions; Mr. Bentham loves division and subdivision—and he loves method itself, more than its consequences. Those only, therefore, who know his originality, his knowledge, his vigour, and his boldness, will recur to the works themselves. The great mass of readers will not purchase improvement at so dear a rate; but will choose rather to become acquainted with Mr. Bentham through the medium of reviews—after that eminent philosopher has been washed, trimmed, shaved, and forced into clean linen. One great use of a review, indeed, is to make men wise in ten pages, who have no appetite for an hundred pages; to condense nourishment, to work with pulp and essence, and to guard the stomach from idle burden and unmeaning bulk. For half a page, sometimes for a whole page, Mr. Bentham writes with a power which few can equal; and by selecting and omitting, an admirable style may be formed from the text. Using this liberty, we shall endeavour to give an account of Mr. Bentham's doctrines, for the most part in his own words. Wherever any expression is particularly happy let it be considered to be Mr. Bentham's:—the dulness we take to ourselves.

Our Wise Ancestors—the Wisdom of our Ancestors—

the Wisdom of Ages—venerable Antiquity—Wisdom of Old Times.—This mischievous and absurd fallacy springs from the grossest perversion of the meaning of words. Experience is certainly the mother of wisdom, and the old have, of course, a greater experience than the young; but the question is, who are the old? and who are the young? Of *individuals* living at the same period, the oldest has, of course, the greatest experience; but among *generations* of men the reverse of this is true. Those who come first (our ancestors), are the young people, and have the least experience. We have added to their experience the experience of many centuries; and, therefore, as far as experience goes, are wiser, and more capable of forming an opinion than they were. The real feeling should be, *not* can we be so presumptuous as to put our opinions in opposition to those of our ancestors? but can such young, ignorant, inexperienced persons as our ancestors necessarily were, be expected to have understood a subject as well as those who have seen so much more, lived so much longer, and enjoyed the experience of so many centuries? All this cant, then, about our ancestors is merely an abuse of words, by transferring phrases true of contemporary men to succeeding ages. Whereas (as we have before observed) of living men the oldest has, *cæteris paribus*, the most experience; of generations, the oldest has, *cæteris paribus*, the least experience. Our ancestors, up to the Conquest, were children in arms; chubby boys in the time of Edward the First; striplings under Elizabeth; men in the reign of Queen Anne; and *we* only are the white-bearded, silver-headed ancients, who have treasured up, and are prepared to profit by, all the experience which human life can supply. We are not disputing with our ancestors the palm of talent, in which they may or may not be our superiors, but the palm of experience, in which it is utterly impossible they can be our superiors. And yet, whenever the chancellor comes forward to protect some abuse, or to oppose some plan which has the increase of human happiness for its object, his first appeal is always to the wisdom of our ancestors; and he himself, and many noble lords who vote with him, are, to this hour, persuaded that all alterations and amendments on their devices are an unblushing controversy between youthful temerity and mature experience!—and so, in truth, they are—only that much-loved magistrate mistakes the young for the old, and the old for the

young—and is guilty of that very sin against experience which he attributes to the lovers of innovation.

We cannot of course be supposed to maintain that our ancestors wanted wisdom, or that they were necessarily mistaken in their institutions, because their means of information were more limited than ours. But we do confidently maintain that when we find it expedient to change any thing which our ancestors have enacted, we are the experienced persons, and not they. The quantity of talent is always varying in any great nation. To say that we are more or less able than our ancestors, is an assertion that requires to be explained. All the able men of all ages, who have ever lived in England, probably possessed, if taken altogether, more intellect than all the able men now in England can boast of. But if authority must be resorted to rather than reason, the question is, What was the wisdom of that single age which enacted the law, compared with the wisdom of the age which proposes to alter it? What are the eminent men of one and the other period? If you say that our ancestors were wiser than us, mention your date and year. If the splendour of names is equal, are the circumstances the same? If the circumstances are the same, we have a superiority of experience, of which the difference between the two periods is the measure. It is necessary to insist upon this; for upon sacks of wool, and on benches forensic, sit grave men, and agricolous persons in the Commons, crying out 'Ancestors, Ancestors! *hodie non!* Saxons, Danes, save us! Fiddlefrig, help us! Howel, Ethelwolf, protect us.'—Any cover for nonsense—any veil for trash—any pretext for repelling the innovations of conscience and of duty!

'So long as they keep to vague generalities—so long as the two objects of comparison are each of them taken in the lump—wise ancestors in one lump, ignorant and foolish mob of modern times in the other—the weakness of the fallacy may escape detection. But let them assign for the period of superior wisdom any determinate period whatsoever, not only will the groundlessness of the notion be apparent (class being compared with class in that period and the present one), but, unless the antecedent period be comparatively speaking a very modern one, so wide will be the disparity, and to such an amount in favour of modern times, that, in comparison of the lowest class of the people in modern times, (always supposing them proficients in the art of reading, and their proficiency employed in the reading of newspapers), the very highest and best informed class of these wise ancestors will turn out to be grossly ignorant.

'Take, for example, any year in the reign of Henry the Eighth, from 1509 to 1546. At that time the House of Lords would probably have been in possession of by far the larger proportion of what little instruction the age afforded: in the House of Lords, among the laity, it might even then be a question whether, without exception, their lordships were all of them able so much as to read. But even supposing them all in the fullest possession of that useful art, political science being the science in question, what instruction on the subject could they meet with at that time of day?

'On no one branch of legislation was any book extant from which, with regard to the circumstances of the then present times, any useful instruction could be derived: distributive law, penal law, international law, political economy, so far from existing as sciences, had scarcely obtained a name: in all those departments, under the head of *quid faciendum*, a mere blank: the whole literature of the age consisted of a meagre chronicle or two, containing short memorandums of the usual occurrences of war and peace, battles, sieges, executions, revels, deaths, births, processions, ceremonies, and other external events; but with scarce a speech or an incident that could enter into the composition of any such work as a history of the human mind—with scarce an attempt at investigation into causes, characters, or the state of the people at large. Even when at last, little by little, a scrap or two of political instruction came to be obtainable, the proportion of error and mischievous doctrine mixed up with it was so great, that whether a blank unfilled might not have been less prejudicial than a blank thus filled, may reasonably be matter of doubt.

'If we come down to the reign of James the First, we shall find that Solomon of his time eminently eloquent as well as learned, not only among crowned but among uncrowned heads, marking out for prohibition and punishment the practices of devils and witches, and without any the slightest objection on the part of the great characters of that day in their high situations, consigning men to death and torment for the misfortune of not being so well acquainted as he was with the composition of the Godhead.

'Under the name of exorcism the Catholic liturgy contains a form of procedure for driving out devils;—even with the help of this instrument, the operation cannot be performed with the desired success, but by an operator qualified by holy orders for the working of this as well as so many other wonders. In our days and in our country the same object is attained, and beyond comparison more effectually, by so cheap an instrument as a common newspaper: before this talisman, not only devils but ghosts, vampires, witches, and all their kindred tribes, are driven out of the land, never to return again! The touch of the holy water is not so intolerable to them as the bare smell of printers' ink.'—(pp. 74—77.)

Fallacy of irrevocable Laws.—A law, says Mr. Bentham, (no matter to what effect), is proposed to a legislative assembly, who are called upon to reject it, upon the single ground, that by those who in some former period exercised the same power,

a regulation was made, having for its object to preclude for ever, or to the end of an unexpired period, all succeeding legislators from enacting a law to any such effect as that now proposed.

Now it appears quite evident that, at every period of time, every legislature must be endowed with all those powers which the exigency of the times may require: and any attempt to infringe on this power is inadmissible and absurd. The sovereign power, at any one period, can only form a blind guess at the measures which may be necessary for any future period: but by this principle of immutable laws, the government is transferred from those who are necessarily the best judges of what they want, to others who can know little or nothing about the matter. The thirteenth century decides for the fourteenth. The fourteenth makes laws for the fifteenth. The fifteenth hermetically seals up the sixteenth, which tyrannizes over the seventeenth, which again tells the eighteenth how it is to act, under circumstances which cannot be foreseen, and how it is to conduct itself in exigencies which no human wit can anticipate.

'Men who have a century more of experience to ground their judgments on, surrender their intellect to men who had a century less experience, and who, unless that deficiency constitutes a claim, have no claim to preference. If the prior gentlemen were, in respect of intellectual qualification, ever so much superior to the subsequent generation—if it understood so much better than the subsequent generation itself the interest of that subsequent generation—could it have been in an equal degree anxious to promote that interest, and consequently equally attentive to those facts with which, though in order to form a judgment it ought to have been, it is impossible that it should have been acquainted? In a word, will its love for that subsequent generation be quite so great as that same generation's love for itself?

'Not even here, after a moment's deliberate reflection, will the assertion be in the affirmative. And yet it is their prodigious anxiety for the welfare of their posterity that produces the propensity of these sages to tie up the hands of this same posterity for evermore—to act as guardians to its perpetual and incurable weakness, and take its conduct for ever out of its own hands.

'If it be right that the conduct of the 19th century should be determined not by its own judgment, but by that of the 18th, it will be equally right that the conduct of the 20th century should be determined, not by its own judgment, but by that of the 19th. And if the same principle were still pursued, what at length would be the consequence? —that in process of time the practice of legislation would be at an end. The conduct and fate of all men would be determined by those who neither knew nor cared any thing about the matter; and the ag-

gregate body of the living would remain for ever in subjection to an inexorable tyranny, exercised as it were by the aggregate body of the dead.'—(pp. 84—86.)

The despotism, as Mr. Bentham well observes, of Nero or Caligula, would be more tolerable than an *irrevocable law.* The despot, through fear or favour, or in a lucid interval, might relent; but how are the Parliament, who made the Scotch Union, for example, to be awakened from that dust in which they repose—the jobber and the patriot, the speaker and the doorkeeper, the silent voters and the men of rich allusions—Cannings and cultivators, Barings and Beggars—making irrevocable laws for men who toss their remains about with spades, and use the relics of these legislators to give breadth to brocoli, and to aid the vernal eruption of asparagus?

If the law is good, it will support itself; if bad, it should not be supported by the *irrevocable theory*, which is never resorted to but as the veil of abuses. All living men must possess the supreme power over their own happiness at every particular period. To suppose that there is any thing which a whole nation cannot do, which they deem to be essential to their happiness, and that they cannot do it, because *another* generation, long ago dead and gone, said it must not be done, is mere nonsense. While you are captain of the vessel, do what you please; but the moment you quit the ship, I become as omnipotent as you. You may leave me as much *advice* as you please, but you cannot leave me *commands;* though, in fact, this is the only meaning which can be applied to what are called irrevocable laws. It appeared to the legislature for the time being to be of immense importance to make such and such a law. Great good was gained, or great evil avoided by enacting it. Pause before you alter an institution which has been deemed to be of so much importance. This is prudence and common sense; the rest is the exaggeration of fools, or the artifice of knaves, who eat up fools. What endless nonsense has been talked of our navigation laws! What wealth has been sacrificed to either before they were repealed! How impossible it appeared to Noodledom to repeal them! They were considered of the irrevocable class—a kind of law over which the dead only were omnipotent, and the living had no power. Frost, it is true, cannot be put off by act of Parliament, nor can spring be accelerated by any majority of both houses. It is, however, quite a mistake to suppose that any

alteration of any of the articles of union is as much out of the jurisdiction of Parliament as these meteorological changes. In every year, and every day of that year, living men have a right to make their own laws, and manage their own affairs; to break through the tyranny of the ante-spirants—the people who breathed before them, and to do what they please for themselves. Such supreme power cannot, indeed, be well exercised by the people at large; it must be exercised therefore by the delegates, or Parliament whom the people choose; and such Parliament, disregarding the superstitious reverence for *irrevocable laws*, can have no other criterion of wrong and right than that of public utility.

When a law is considered as immutable, and the immutable law happens at the same time to be too foolish and mischievous to be endured, instead of being repealed, it is clandestinely evaded, or openly violated; and thus the authority of all law is weakened.

Where a nation has been ancestorially bound by foolish and improvident treaties, ample notice must be given of their termination. Where the state has made ill-advised grants, or rash bargains with individuals, it is necessary to grant proper compensation. The most difficult case, certainly, is that of the union of nations, where a smaller number of the weaker nation is admitted into the larger senate of the greater nation, and will be overpowered if the question comes to a vote; but the lesser nation must run this risk: it is not probable that any violation of articles will take place, till they are absolutely called for by extreme necessity. But let the danger be what it may, no danger is so great, no supposition so foolish, as to consider any human law as irrevocable. The shifting attitude of human affairs would often render such a condition an intolerable evil to all parties. The absurd jealousy of our countrymen at the union secured heritable jurisdiction to the owners; nine and thirty years afterwards they were abolished, in the very teeth of the act of union, and to the evident promotion of the public good.

Continuity of a Law by Oath.—The sovereign of England at his coronation takes an oath to maintain the laws of God, the true profession of the gospel, and the Protestant religion as established by law, and to preserve to the bishops and clergy of this realm the rights and privileges which by law appertain to them, and to preserve inviolate the doctrine, dis-

cipline, worship, and government of the church. It has been suggested that by this oath the king stands precluded from granting those indulgences to the Irish Catholics, which are included in the bill for their emancipation. The true meaning of these provisions is of course to be decided, if doubtful, by the same legislative authority which enacted them. But a different notion it seems is now afloat. The king for the time being (we are putting an imaginary case) thinks as an individual, that he is not maintaining the doctrine, discipline. and rights of the Church of England, if he grants any extension of civil rights to those who are not members of that church, that he is violating his oath by so doing. This oath, then, according to this reasoning, is the great palladium of the church. As long as it remains inviolate the church is safe. How, then, can any monarch who has taken it ever consent to repeal it? How can he, consistently with his oath for the preservation of the privileges of the church, contribute his part to throw down so strong a bulwark as he deems this oath to be! The oath, then, cannot be altered. It must remain under all circumstances of society the same. The king, who has taken it, is bound to continue it, and to refuse his sanction to any bill for its future alteration; because it prevents him, and, he must needs think, will prevent others from granting dangerous immunities to the enemies of the church.

Here, then, is an irrevocable law—a piece of absurd tyranny exercised by the rulers of Queen Anne's time upon the government of 1825—a certain art of potting and preserving a kingdom, in one shape, attitude, and flavour—and in this way it is that an institution appears like old Ladies' Sweetmeats and made Wines—Apricot Jam 1822—Currant Wine 1819—Court of Chancery 1427—Penal Laws against Catholics 1676. The difference is, that the ancient woman is a better judge of mouldy commodities than the illiberal part of his majesty's ministers. The potting lady goes sniffing about and admitting light and air to prevent the progress of decay; while to him of the woolsack, all seems doubly dear in proportion as it is antiquated, worthless, and unusable. It ought not to be in the power of the sovereign to tie up his own hands, much less the hands of his successors. If the sovereign is to oppose his own opinion to that of the two other branches of the legislature, and himself to decide what he considers to be for the

benefit of the Protestant church, and what not, a king who has spent his whole life in the frivolous occupation of a court, may, by perversion of understanding, conceive measures most salutary to the church to be most pernicious; and persevering obstinately in his own error, may frustrate the wisdom of his Parliament, and perpetuate the most inconceivable folly! If Henry VIII. had argued in this manner, we should have had no reformation. If George III. had always argued in this manner, the Catholic code would never have been relaxed. And thus, a king, however incapable of forming an opinion upon serious subjects, has nothing to do but to pronounce the word *conscience*, and the whole power of the country is at his feet.

Can there be greater absurdity than to say that a man is acting contrary to his conscience who surrenders his opinion upon any subject to those who must understand the subject better than himself? I think my ward has a claim to the estate; but the best lawyers tell me he has none. I think my son capable of undergoing the fatigues of a military life; but the best physicians say he is much too weak. My Parliament say this measure will do the church no harm; but I think it very pernicious to the church. Am I acting contrary to my conscience because I apply much higher intellectual powers than my own to the investigation and protection of these high interests?

'According to the form in which it is conceived, any such engagement is in effect either a check or a license:—a license under the appearance of a check, and for that very reason but the more efficiently operative.

'Chains to the man in power? Yes:—but only such as he figures with on the stage: to the spectators as imposing, to himself as light as possible. Modelled by the wearer to suit his own purposes, they serve to rattle, but not to restrain.

'Suppose a king of Great Britain and Ireland to have expressed his fixed determination, in the event of any proposed law being tendered to him for his assent, to refuse such assent, and this not on the persuasion that the law would not be "for the utility of the subjects," but that by his coronation oath he stands precluded from so doing:—the course proper to be taken by Parliament, the course pointed out by principle and precedent, would be, a vote of abdication:—a vote declaring the king to have abdicated his royal authority, and that, as in case of death or incurable mental derangement, now is the time for the person next in succession to take his place.

'In the celebrated case in which a vote to this effect was actually

passed, the declaration of abdication was in lawyers' language a fiction—in plain truth a falsehood—and that falsehood a mockery; not a particle of his power was it the wish of James to abdicate, to part with; but to increase it to a maximum was the manifest object of all his efforts. But in the case here supposed, with respect to a part, and that a principal part of the royal authority, the will and purpose to abdicate are actually declared: and this, being such a part, without which the remainder cannot, "to the utility of the subjects," be exercised, the remainder must of necessity be, on their part, and for their sake, added.'—(pp. 110, 111.)

Self-trumpeter's fallacy.—Mr. Bentham explains the self-trumpeter's fallacy as follows.

'There are certain men in office who, in discharge of their functions, arrogate to themselves a degree of probity, which is to exclude all imputations and all inquiry. Their assertions are to be deemed equivalent to proof; their virtues are guarantees for the faithful discharge of their duties; and the most implicit confidence is to be reposed in them on all occasions. If you expose any abuse, propose any reform, call for securities, inquiry, or measures to promote publicity, they set up a cry of surprise, amounting almost to indignation, as if their integrity were questioned, or their honour wounded. With all this, they dexterously mix up intimations, that the most exalted patriotism, honour, and perhaps religion, are the only sources of all their actions.'—(p. 120.)

Of course every man will try what he can effect by these means; but (as Mr. Bentham observes) if there be any one maxim in politics more certain than another, it is that no possible degree of virtue in the governor can render it expedient for the governed to dispense with good laws and good institutions. Madame de Stael (to her disgrace) said to the Emperor of Russia, 'Sire, your character is a constitution for your country, and your conscience its guarantee.' His reply was, 'Quand cela serait, je ne serais jamais qu'un accident heureux;' and this we think one of the truest and most brilliant replies ever made by monarch.

Laudatory Personalities.—'The object of laudatory personalities is to effect the rejection of a measure on account of the alleged good character of those who oppose it; and the argument advanced is, "The measure is rendered unnecessary by the virtue of those who are in power—their opposition is sufficient authority for the rejection of the measure. The measure proposed implies a distrust of the members of his majesty's government; but so great is their integrity, so complete their disinterestedness, so uniformly do they prefer the public advantage to their own, that such a measure is altogether unnecessary. Their disapproval is sufficient to warrant an opposition;

precautions can only be requisite where danger is apprehended; here, the high character of the individuals in question is a sufficient guarantee against any ground of alarm."'—(pp. 123, 124.)

The panegyric goes on increasing with the dignity of the lauded person. All are honourable and delightful men. The person who opens the door of the office is a person of approved fidelity; the junior clerk is a model of assiduity; all the clerks are models—seven years' models, eight years' models, nine years' models and upwards. The first clerk is a paragon—and ministers the very perfection of probity and intelligence; and as for the highest magistrate of the state, no adulation is equal to describe the extent of his various merits! It is too condescending, perhaps, to refute such folly as this. But we would just observe that if the propriety of the measure in question be established by direct arguments, these must be at least as conclusive against the character of those who oppose it, as their character can be against the measure.

The effect of such an argument is, to give men of good or reputed good character, the power of putting a negative on any question—not agreeable to their inclinations.

'In every public trust, the legislator should, for the purpose of prevention, suppose the trustee disposed to break the trust in every imaginable way in which it would be possible for him to reap, from the breach of it, any personal advantage. This is the principle on which public institutions ought to be formed; and when it is applied to all men indiscriminately, it is injurious to none. The practical inference is, to oppose to such possible (and what will always be probable) breaches of trust every bar that can be opposed, consistently with the power requisite for the efficient and due discharge of the trust. Indeed, these arguments, drawn from the supposed virtues of men in power, are opposed to the first principles on which all laws proceed.

'Such allegations of individual virtue are never supported by specific proof, are scarce ever susceptible of specific disproof; and specific disproof, if offered, could not be admitted in either house of Parliament. If attempted elsewhere, the punishment would fall, not on the unworthy trustee, but on him by whom the unworthiness had been proved.'—(pp. 125, 126.)

Fallacies of pretended Danger.—Imputation of bad design—of bad character—of bad motives—of inconsistency—of suspicious connections.

The object of this class of fallacies is to draw aside attention from the measure to the man, and this in such a manner, that, for some real or supposed defect in the author of the measure, a corresponding defect shall be imputed to the mea-

sure itself. Thus 'the author of the measure entertains a bad design; therefore the measure is bad. His character is bad, therefore the measure is bad; his motive is bad, I will vote against the measure. On former occasions, this same person who proposed the measure was its enemy, therefore the measure is bad. He is on a footing of intimacy with this or that dangerous man, or has been seen in his company, or is suspected of entertaining some of his opinions, therefore the measure is bad. He bears a name that at a former period was borne by a set of men now no more, by whom bad principles were entertained—therefore the measure is bad!'

Now, if the measure be really inexpedient, why not at once show it to be so? If the measure is good, is it bad because a bad man is its author? If bad, is it good because a good man has produced it? What are these arguments, but to say to the assembly who are to be the judges of any measure, that their imbecility is too great to allow them to judge of the measure by its own merits, and that they must have recourse to distant and feebler probabilities for that purpose?

'In proportion to the degree of efficiency with which a man suffers these instruments of deception to operate upon his mind, he enables bad men to exercise over him a sort of power, the thought of which ought to cover him with shame. Allow this argument the effect of a conclusive one, you put it into the power of any man to draw you at pleasure from the support of every measure, which in your own eyes is good, to force you to give your support to any and every measure which in your own eyes is bad. Is it good?—the bad man embraces it, and, by the supposition, you reject it. Is it bad?—he vituperates it, and that suffices for driving you into its embrace. You split upon the rocks, because he has avoided them; you miss the harbour, because he has steered into it? Give yourself up to any such blind antipathy, you are no less in the power of your adversaries, than if, by a correspondently irrational sympathy and obsequiousness, you put yourself into the power of your friends.'—(pp. 132, 133.)

'Besides, nothing but laborious application, and a clear and comprehensive intellect, can enable a man, on any given subject, to employ successfully relevant arguments drawn from the subject itself. To employ personalities, neither labour nor intellect is required. In this sort of contest, the most idle and the most ignorant are quite on a par with, if not superior to, the most industrious and the most highly gifted individuals. Nothing can be more convenient for those who would speak without the trouble of thinking. The same ideas are brought forward over and over again, and all that is required is to vary the turn of expression. Close and relevant arguments have very little hold on the passions, and serve rather to quell than to inflame

them; while in personalities there is always something stimulant, whether on the part of him who praises or him who blames. Praise forms a kind of connection between the party praising and the party praised, and vituperation gives an air of courage and independence to the party who blames.

'Ignorance and indolence, friendship and enmity, concurring and conflicting interest, servility and independence, all conspire to give personalities the ascendency they so unhappily maintain. The more we lie under the influence of our own passions, the more we rely on others being affected in a similar degree. A man who can repel these injuries with dignity, may often convert them into triumph: "Strike me, but hear," says he, and the fury of his antagonist redounds to his own discomfiture.'—(pp. 141, 142.)

No Innovation!—To say that all new things are bad, is to say that all old things were bad in their commencement: for of all the old things ever seen or heard of, there is not one that was not once new. Whatever is now establishment was once innovation. The first inventor of pews and parish clerks was no doubt considered as a Jacobin in his day. Judges, juries, criers of the court, are all the inventions of ardent spirits, who filled the world with alarm, and were considered as the great precursors of ruin and dissolution. No inoculation, no turnpikes, no reading, no writing, no popery! The fool saye-th in his heart, and crieth with his mouth, 'I will have nothing new!'

Fallacy of Distrust.—'*What's at the Bottom?*'—This fallacy begins with a virtual admission of the propriety of the measure considered in itself, and thus demonstrates its own futility, and cuts up from under itself the ground which it endeavours to make. A measure is to be rejected for something that, by bare possibility, may be found amiss in some other measure! This is vicarious reprobation; upon this principle Herod instituted his massacre. It is the argument of a driveller to other drivellers, who says, We are not able to decide upon the evil when it arises—our only safe way is to act upon the general apprehension of evil.

Official Malefactor's Screen.—'*Attack us—you attack Government.*'

If this notion is acceded to, every one who derives at present any advantage from misrule has it in fee-simple; and all abuses, present and future, are without remedy. So long as there is any thing amiss in conducting the business of government, so long as it can be made better, there can be no other

mode of bringing it nearer to perfection, than the indication of such imperfections as at the time being exist.

'But so far is it from being true that a man's aversion or contempt for the hands by which the powers of government, or even for the system under which they are exercised, is a proof of his aversion or contempt towards government itself, that, even in proportion to the strength of that aversion or contempt, it is a proof of the opposite affection. What, in consequence of such contempt or aversion, he wishes for, is, not that there be no hands at all to exercise these powers, but that the hands may be better regulated;—not that those powers should not be exercised at all, but that they should be better exercised;—not that, in the exercise of them, no rules at all should be pursued, but that the rules by which they are exercised should be a better set of rules.

'All government is a trust; every branch of government is a trust; and immemorially acknowledged so to be: it is only by the magnitude of the scale that public differ from private trusts. I complain of the conduct of a person in the character of guardian, as domestic guardian, having the care of a minor or insane person. In so doing, do I say that guardianship is a bad institution? Does it enter into the head of any one to suspect me of so doing? I complain of an individual in the character of a commercial agent, or assignee of the effects of an insolvent. In so doing, do I say that commercial agency is a bad thing? that the practice of vesting in the hands of trustees or assignees the effects of an insolvent, for the purpose of their being divided among his creditors, is a bad practice? Does any such conceit ever enter into the head of man, as that of suspecting me of so doing?'—(pp. 162, 163.)

There are no complaints against government in Turkey—no motions in Parliament, no Morning Chronicles, and no Edinburgh Reviews: yet, of all countries in the world, it is that in which revolts and revolutions are the most frequent.

It is so far from true, that no good government can exist consistently with such disclosure, that no good government can exist without it. It is quite obvious, to all who are capable of reflection, that by no other means than by lowering the governors in the estimation of the people, can there be hope or chance of beneficial change. To infer from this wise endeavour to lessen the existing rulers in the estimation of the people, a wish of dissolving the government, is either artifice or error. The physician who intentionally weakens the patient by bleeding him has no intention he should perish.

The greater the quantity of respect a man receives, independently of good conduct, the less good is his behaviour likely to be. It is the interest, therefore, of the public, in the case

of each, to see that the respect paid to him should, as completely as possible, depend upon the goodness of his behaviour in the execution of his trust. But it is, on the contrary, the interest of the trustee, that the respect, the money, or any other advantage he receives in virtue of his office, should be as great, as secure, and as independent of conduct as possible. Soldiers expect to be shot at; public men must expect to be attacked, and sometimes unjustly. It keeps up the habit of considering their conduct as exposed to scrutiny; on the part of the people at large, it keeps alive the expectation of witnessing such attacks, and the habit of looking out for them. The friends and supporters of government have always greater facility in keeping and raising it up, than its adversaries have for lowering it.

Accusation-scarer's Device.—'*Infamy must attach somewhere.*'

This fallacy consists in representing the character of a calumniator as necessarily and justly attaching upon him who, having made a charge of misconduct against any persons possessed of political power or influence, fails of producing evidence sufficient for their conviction.

'If taken as a general proposition, applying to all public accusations, nothing can be more mischievous as well as fallacious. Supposing the charge unfounded, the delivery of it may have been accompanied with *mala fides* (consciousness of its injustice), with *temerity* only, or it may have been perfectly blameless. It is in the first case alone that infamy can with propriety attach upon him who brings it forward. A charge really groundless may have been honestly *believed* to be well founded, *i. e.*, believed with a sort of provisional credence, sufficient for the purpose of engaging a man to do his part towards the bringing about an investigation, but without sufficient reasons. But a charge may be perfectly groundless without attaching the smallest particle of blame upon him who brings it forward. Suppose him to have heard from one or more, presenting themselves to him in the character of percipient witnesses, a story which, either *in toto*, or perhaps only in *circumstances*, though in circumstances of the most material importance, should prove false and mendacious—how is the person who hears this, and acts accordingly, to blame? What sagacity can enable a man previously to legal investigation, a man who has no power that can enable him to insure correctness or completeness on the part of this extrajudicial testimony, to guard against deception in such a case?'—(pp. 185, 186.)

Fallacy of false Consolation.—'*What is the matter with you?—What would you have? Look at the people there, and there; think how much better off you are than they are.*

Your prosperity and liberty are objects of their envy; your institutions models of their imitation.'

It is not the desire to look to the bright side that is blamed: but when a particular suffering, produced by an assigned cause, has been pointed out, the object of many apologists is to turn the eyes of inquirers and judges into any other quarter in preference. If a man's tenants were to come with a general encomium on the prosperity of the country, instead of a specified sum, would it be accepted? In a court of justice, in an action for damages, did ever any such device occur as that of pleading assets in the hands of a third person? There is, in fact, no country so poor and so wretched in every element of prosperity, in which matter for this argument might not be found. Were the prosperity of the country tenfold as great as at present, the absurdity of the argument would not in the least degree be lessened. Why should the smallest evil be endured, which can be cured; because others suffer patiently under greater evils? Should the smallest improvement attainable be neglected, because others remain contented in a state of still greater inferiority?

'Seriously and pointedly in the character of a bar to any measure of relief, no, nor to the most trivial improvement, can it ever be employed. Suppose a bill brought in for converting an impassable road any where into a passable one, would any man stand up to oppose it who could find nothing better to urge against it than the multitude and goodness of the roads we have already? No: when in the character of a serious bar to the measure in hand, be that measure what it may, an argument so palpably inapplicable is employed, it can only be for the purpose of creating a diversion;—of turning aside the minds of men from the subject really in hand, to a picture which, by its beauty, it is hoped, may engross the attention of the assembly, and make them forget for the moment for what purpose they came there.'—(pp. 196, 197.)

The Quietist, or no Complaint.—'A new law or measure being proposed in the character of a remedy for some incontestable abuse or evil, an objection is frequently started to the following effect:—"The measure is unnecessary. Nobody complains of disorder in that shape, in which it is the aim of your measure to propose a remedy to it. But even when *no* cause of complaint has been found to exist, especially under governments which admit of complaints, men have in general not been slow to complain; much less where any just cause of complaint has existed." The argument amounts to this:—Nobody complains, therefore nobody suffers. It amounts to a *veto* on all measures of precaution or prevention, and goes to establish a maxim in legislation directly opposed to the most ordinary prudence of common life;

—it enjoins us to build no parapets to a bridge till the number of accidents has raised an universal clamour.'—(pp. 190, 191.)

Procrastinator's Argument.—'Wait a little, this is not the time.'

This is the common argument of men, who, being in reality hostile to a measure, are ashamed or afraid of appearing to be so. *To-day* is the plea—*eternal exclusion* commonly the object. It is the same sort of quirk as a plea of abatement in law—which is never employed but on the side of a dishonest defendant, whose hope it is to obtain an ultimate triumph, by overwhelming his adversary with despair, impoverishment, and lassitude. Which is the properest day to do good? which is the properest day to remove a nuisance? we answer, the very first day a man can be found to propose the removal of it; and whoever opposes the removal of it on that day will (if he dare) oppose it on every other. There is in the minds of many feeble friends to virtue and improvement, an imaginary period for the removal of evils, which it would certainly be worth while to wait for, if there was the smallest chance of its ever arriving—a period of unexampled peace and prosperity, when a patriotic king and an enlightened mob united their ardent efforts for the amelioration of human affairs; when the oppressor is as delighted to give up the oppression, as the oppressed is to be liberated from it; when the difficulty and the unpopularity would be to continue the evil, not to abolish it! These are the periods when fair weather philosophers are willing to venture out, and hazard a little for the general good. But the history of human nature is so contrary to all this, that almost all improvements are made after the bitterest resistance, and in the midst of tumults and civil violence—the worst period at which they can be made, compared to which any period is eligible, and should be seized hold of by the friends of salutary reform.

Snail's Pace argument.—' One thing at a time! Not too fast! Slow and sure!—Importance of the business—extreme difficulty of the business—danger of innovation—need of caution and circumspection—impossibility of foreseeing all consequences—danger of precipitation—every thing should be gradual—one thing at a time—this is not the time—great occupation at present—wait for more leisure—people well satisfied—no petitions presented—no complaints heard—no such mischief has yet taken place—stay till it has taken place!—Such is the prattle which the magpie in office, who, understanding nothing, yet understands that he must have something to say on every subject,

shouts out among his auditors as a succedaneum to thought.'—(pp. 203, 204.)

Vague Generalities.—Vague generalities comprehend a numerous class of fallacies resorted to by those who, in preference to the determinate expressions which they might use, adopt others more vague and indeterminate.

Take, for instance, the terms, government, laws, morals, religion. Every body will admit that there are in the world bad governments, bad laws, bad morals, and bad religions. The bare circumstance, therefore, of being engaged in exposing the defects of government, law, morals, and religion, does not of itself afford the slightest presumption that a writer is engaged in any thing blamable. If his attack is only directed against that which is bad in each, his efforts may be productive of good to any extent. This essential distinction, however, the defender of abuses uniformly takes care to keep out of sight; and boldly imputes to his antagonists an intention to subvert all *government, law, morals, and religion.* Propose any thing with a view to the improvement of the existing practice, in relation to law, government, and religion, he will treat you with an oration upon the necessity and utility of law, government, and religion. Among the several cloudy appellatives which have been commonly employed as cloaks for misgovernment, there is none more conspicuous in this atmosphere of illusion than the word order. As often as any measure is brought forward which has for its object to lessen the sacrifice made by the many to the few, *social order* is the phrase commonly opposed to its progress.

'By a defalcation made from any part of the mass of factitious delay, vexation, and expense, out of which, and in proportion to which, lawyers' profit is made to flow—by any defalcation made from the mass of needless and worse than useless emolument to office, with or without service or pretence of service—by any addition endeavoured to be made to the quantity, or improvement in the quality of service rendered, or time bestowed in service rendered in return for such emolument—by every endeavour that has for its object the persuading the people to place their fate at the disposal of any other agents than those in whose hands breach of trust is certain, due fulfilment of it morally and physically impossible—*social order* is said to be endangered, and threatened to be destroyed.'—(p. 234.)

In the same way *establishment* is a word in use to protect the bad parts of establishments, by charging those who wish to remove or alter them, with a wish to subvert all good establishments.

Mischievous fallacies also circulate from the convertible use of what Mr. B. is pleased to call dyslogistic and eulogistic terms. Thus a vast concern is expressed for the *liberty of the press*, and the utmost abhorrence for its *licentiousness:* but then, by the licentiousness of the press is meant every disclosure by which any abuse is brought to light and exposed to shame—by the *liberty of the press* is meant only publications from which no such inconvenience is to be apprehended; and the fallacy consists in employing the sham approbation of liberty as a mask for the real opposition to all free discussion. To write a pamphlet so ill that nobody will read it; to animadvert in terms so weak and insipid upon great evils, that no disgust is excited at the vice, and no apprehension in the evil-doer, is a fair use of the liberty of the press, and, is not only pardoned by the friends of government, but draws from them the most fervent eulogium. The licentiousness of the press consists in doing the thing boldly and well, in striking terror into the guilty, and in rousing the attention of the public to the defence of their highest interests. This is the licentiousness of the press held in the greatest horror by timid and corrupt men, and punished by semianimous semicadaverous judges, with a captivity of many years. In the same manner the dyslogistic and eulogistic fallacies are used in the case of reform.

'Between all abuses whatsoever, there exists that connection;—between all persons who see each of them, any one abuse in which an advantage results to himself, there exists, in point of interest, that close and sufficiently understood connection, of which intimation has been given already. To no one abuse can correction be administered without endangering the existence of every other.

'If, then, with this inward determination not to suffer, so far as depends upon himself, the adoption of any reform which he is able to prevent, it should seem to him necessary or advisable to put on for a cover, the profession or appearance of a desire to contribute to such reform—in pursuance of the device or fallacy here in question, he will represent that which goes by the name of reform as distinguishable into two species; one of them a fit subject for approbation, the other for disapprobation. That which he thus professes to have marked for approbation, he will accordingly, for the expression of such approbation, characterize by some adjunct of the *eulogistic* cast, such as moderate, for example, or temperate, or practical, or practicable.

'To the other of these nominally distinct species he will, at the same time, attach some adjunct of the *dyslogistic* cast, such as violent,

intemperate, extravagant, outrageous, theoretical, speculative, and so forth.

'Thus, then, in profession and to appearance, there are in his conception of the matter two distinct and opposite species of reform, to one of which his approbation, to the other his disapprobation is attached. But the species to which his approbation is attached is an *empty* species—a species in which no individual is, or is intended to be, contained.

'The species to which his disapprobation is attached is, on the contrary, a crowded species, a receptacle in which the whole contents of the *genus*—of the genus *Reform* are intended to be included.'—(pp. 277, 278.)

Anti-rational Fallacies—When reason is in opposition to a man's interests, his study will naturally be to render the faculty itself, and whatever issues from it, an object of hatred and contempt. The sarcasm and other figures of speech employed on the occasion are directed not merely against reason but against thought, as if there were something in the faculty of thought that rendered the exercise of it incompatible with useful and successful practice. Sometimes a plan, which would not suit the official person's interest, is without more ado pronounced a *speculative* one; and, by this observation, all need of rational and deliberate discussion is considered to be superseded. The first effort of the corruptionist is to fix the epithet *speculative* upon any scheme which he thinks may cherish the spirit of reform. The expression is hailed with the greatest delight by bad and feeble men, and repeated with the most unwearied energy; and, to the word speculative, by way of reinforcement, are added, *theoretical*, *visionary*, *chimerical*, *romantic*, *Utopian*.

'Sometimes a distinction is taken, and thereupon a concession made. The plan is *good in theory*, but it would be *bad in practice*, i. e., its being good in theory does not hinder its being bad in practice.

'Sometimes, as if in consequence of a farther progress made in the art of irrationality, the plan is pronounced to be *too good to be practicable;* and its being so good as it is, is thus represented as the very cause of its being bad in practice.

'In short, such is the perfection at which this art is at length arrived, that the very circumstance of a plan's being susceptible of the appellation of a *plan*, has been gravely stated as a circumstance sufficient to warrant its being rejected, if not with hatred, at any rate with a sort of accompaniment, which to the million, is commonly felt still more galling—with contempt.'—(p. 296.)

There is a propensity to push theory too far; but what is the just inference? not that theoretical propositions (*i. e.*, all

propositions of any considerable comprehension or extent) should, from such their extent, be considered to be false *in toto*, but only that, in the particular case, inquiry should be made whether, supposing the proposition to be in the character of a rule generally true, an exception ought to be taken out of it. It might almost be imagined that there was something wicked or unwise in the exercise of thought; for every body feels a necessity for disclaiming it. 'I am not given to speculation; I am no friend to theories.' Can a man disclaim theory, can he disclaim speculation, without disclaiming thought?

The description of persons by whom this fallacy is chiefly employed are those who, regarding a plan as adverse to their interests, and not finding it on the ground of general utility exposed to any predominant objection, have recourse to this objection in the character of an instrument of contempt, in the view of preventing those from looking into it who might have been otherwise disposed. It is by the fear of seeing it practised that they are drawn to speak of it as impracticable. 'Upon the face of it (exclaims some feeble or pensioned gentleman), it carries that air of plausibility, that if you were not upon your guard, might engage you to bestow more or less of attention upon it; but were you to take the trouble, you would find that (as it is with all these plans which promise so much), practicability would at last be wanting to it. To save yourself from this trouble, the wisest course you can take is to put the plan aside, and to think no more about the matter.' This is always accompanied with a peculiar grin of triumph.

The whole of these fallacies may be gathered together in a little oration, which we will denominate the

Noodle's Oration.

'What would our ancestors say to this, sir? How does this measure tally with their institutions? How does it agree with their experience? Are we to put the wisdom of yesterday in competition with the wisdom of centuries? (*Hear, hear!*) Is beardless youth to show no respect for the decisions of mature age? (*Loud cries of hear! hear!*) If this measure is right, would it have escaped the wisdom of those Saxon progenitors to whom we are indebted for so many of our best political institutions? Would the Dane have passed it over? Would the Norman have rejected it? Would such a notable discovery have been reserved for these modern and dege-

nerate times? Besides, sir, if the measure itself is good, I ask the honourable gentleman if this is the time for carrying it into execution—whether, in fact, a more unfortunate period could have been selected than that which he has chosen? If this were an ordinary measure, I should not oppose it with so much vehemence; but, sir, it calls in question the wisdom of an irrevocable law—of a law passed at the memorable period of the Revolution. What right have we, sir, to break down this firm column, on which the great men of that day stampt a character of eternity? Are not all authorities against this measure, Pitt, Fox, Cicero, and the Attorney and Solicitor General? The proposition is new, sir; it is the first time it was ever heard in this house. I am not prepared, sir—this house is not prepared, to receive it. The measure implies a distrust of his majesty's government; their disapproval is sufficient to warrant opposition. Precaution only is requisite where danger is apprehended. Here the high character of the individuals in question is a sufficient guarantee against any ground of alarm. Give not, then, your sanction to this measure; for, whatever be its character, if you do give your sanction to it, the same man by whom this is proposed, will propose to you others to which it will be impossible to give your consent. I care very little, sir, for the ostensible measure; but what is there behind? What are the honourable gentleman's future schemes? If we pass this bill, what fresh concessions may he not require? What farther degradation is he planning for his country? Talk of evil and inconvenience, sir! look to other countries—study other aggregations and societies of men, and then see whether the laws of this country demand a remedy, or deserve a panegyric. Was the honourable gentleman (let me ask him) always of this way of thinking? Do I not remember when he was the advocate in this house of very opposite opinions? I not only quarrel with his present sentiments, sir, but I declare very frankly I do not like the party with which he acts. If his own motives were as pure as possible, they cannot but suffer contamination from those with whom he is politically associated. This measure may be a boon to the constitution, but I will accept no favour to the constitution from such hands. (*Loud cries of hear! hear!*) I profess myself, sir, an honest and upright member of the British Parliament, and I am not afraid to profess myself an enemy to all change, and all innovation. I am satisfied with things as they are; and it will be my pride and

pleasure to hand down this country to my children as I received it from those who preceded me. The honourable gentleman pretends to justify the severity with which he has attacked the noble lord who presides in the Court of Chancery. But I say such attacks are pregnant with mischief to government itself. Oppose ministers, you oppose government: disgrace ministers, you disgrace government: bring ministers into contempt, you bring government into contempt; and anarchy and civil war are the consequences. Besides, sir, the measure is unnecessary. Nobody complains of disorder in that shape in which it is the aim of your measure to propose a remedy to it. The business is one of the greatest importance; there is need of the greatest caution and circumspection. Do not let us be precipitate, sir; it is impossible to foresee all consequences. Every thing should be gradual; the example of a neighbouring nation should fill us with alarm! The honourable gentleman has taxed me with illiberality, sir. I deny the charge. I hate innovation, but I love improvement. I am an enemy to the corruption of government, but I defend its influence. I dread reform, but I dread it only when it is intemperate. I consider the liberty of the press as the great palladium of the constitution; but, at the same time, I hold the licentiousness of the press in the greatest abhorrence. Nobody is more conscious than I am of the splendid abilities of the honourable mover, but I tell him at once, his scheme is too good to be practicable. It savours of Utopia. It looks well in theory, but it won't do in practice. It will not do, I repeat, sir, in practice; and so the advocates of the measure will find, if, unfortunately, it should find its way through Parliament. (*Cheers.*) The source of that corruption to which the honourable member alludes, is in the minds of the people; so rank and extensive is that corruption, that no political reform can have any effect in removing it. Instead of reforming others—instead of reforming the state, the constitution, and every thing that is most excellent, let each man reform himself! let him look at home, he will find there enough to do, without looking abroad, and aiming at what is out of his power. (*Loud cheers.*) And now, sir, as it is frequently the custom in this house to end with a quotation, and as the gentleman who preceded me in the debate, has anticipated me in my favourite quotation of the "Strong pull and the long pull," I shall end with the memorable

words of the assembled Barons—*Nolumus leges Angliæ mutari.*'

'Upon the whole, the following are the characters which appertain in common to all the several arguments here distinguished by the name of fallacies:—

'1. Whatsoever be the measure in hand, they are, with relation to it, irrelevant.

'2. They are all of them such, that the application of these irrelevant arguments affords a presumption either of the weakness or total absence of relevant arguments on the side on which they are employed.

'3. To any good purpose they are all of them unnecessary.

'4. They are all of them not only capable of being applied, but actually in the habit of being applied, and with advantage, to bad purposes, viz. to the obstruction and defeat of all such measures as have for their object the removal of the abuses or other imperfections still discernible in the frame and practice of the government.

'5. By means of their irrelevancy, they all of them consume and misapply time, thereby obstructing the course and retarding the progress of all necessary and useful business.

'6. By that irritative quality which, in virtue of their irrelevancy, with the improbity or weakness of which it is indicative, they possess, all of them, in a degree more or less considerable, but in a more particular degree such of them as consist in personalities, they are productive of ill-humour, which in some instances has been productive of bloodshed, and is continually productive, as above, of waste of time and hinderance of business.

'7. On the part of those who, whether in spoken or written discourses, give utterance to them, they are indicative either of improbity or intellectual weakness, or of a contempt for the understanding of those on whose minds they are destined to operate.

'8. On the part of those on whom they operate, they are indicative of intellectual weakness; and on the part of those in and by whom they are pretended to operate, they are indicative of improbity, viz. in the shape of insincerity.

'The practical conclusion is, that in proportion as the acceptance, and thence the utterance, of them can be prevented, the understanding of the public will be strengthened, the morals of the public will be purified, and the practice of government improved.'—(pp. 359, 360.)

WATERTON. (Edinburgh Review, 1826.)

Wanderings in South America, the North-West of the United States, and the Antilles, in the years 1812, 1816, 1820, *and* 1824; *with Original Instructions for the perfect Preservation of Birds, &c. for Cabinets of Natural History.* By Charles Waterton, Esq. London, Mawman. 4to. 1825.

Mr. Waterton is a Roman Catholic gentleman of Yorkshire, of good fortune, who, instead of passing his life at balls and assemblies, has preferred living with Indians and monkeys in the forests of Guiana. He appears in early life to have been seized with an unconquerable aversion to Piccadilly, and to that train of meteorological questions and answers, which forms the great staple of polite English conversation. From a dislike to the regular form of a journal, he throws his travels into detached pieces, which he, rather affectedly, calls Wanderings—and of which we shall proceed to give some account.

His first Wandering was in the year 1812, through the wilds of Demerara and Essequibo, a part of *ci-devant* Dutch Guiana, in South America. The sun exhausted him by day, the musquitoes bit him by night; but on went Mr. Charles Waterton!

The first thing which strikes us in this extraordinary chronicle, is the genuine zeal and inexhaustible delight with which all the barbarous countries he visits are described. He seems to love the forests, the tigers, and the apes;—to be rejoiced that he is the only man there; that he has left his species far away; and is at last in the midst of his blessed baboons! He writes with a considerable degree of force and vigour; and contrives to infuse into his reader that admiration of the great works, and undisturbed scenes of nature, which animates his style, and has influenced his life and practice. There is something, too, to be highly respected and praised in the conduct of a country gentleman, who, instead of exhausting life in the chase, has dedicated a considerable portion of it to the pursuit of knowledge. There are so many temptations to complete

idleness in the life of a country gentleman, so many examples of it, and so much loss to the community from it, that every exception from the practice is deserving of great praise. Some country gentlemen must remain to do the business of their counties; but, in general, there are many more than are wanted; and, generally speaking also, they are a class who should be stimulated to greater exertions. Sir Joseph Banks, a squire of large fortune in Lincolnshire, might have given up his existence to double-barrelled guns and persecutions of poachers—and all the benefits derived from his wealth, industry, and personal exertion in the cause of science, would have been lost to the community.

Mr. Waterton complains, that the trees of Guiana are not more than six yards in circumference—a magnitude in trees which it is not easy for a Scotch imagination to reach. Among these, pre-eminent in height rises the mora—upon whose top branches, when naked by age, or dried by accident, is perched the toucan, too high for the gun of the fowler;—around this are the green heart, famous for hardness; the tough hackea; the ducalabali, surpassing mahogany; the ebony and letter-wood, exceeding the most beautiful woods of the Old World; the locust-tree, yielding copal; and the hayawa and olou-trees, furnishing sweet-smelling resin. Upon the top of the mora grows the fig-tree. The bush-rope joins tree and tree, so as to render the forest impervious, as, descending from on high, it takes root as soon as its extremity touches the ground, and appears like shrouds and stays supporting the mainmast of a line-of-battle ship.

Demerara yields to no country in the world in her birds. The mud is flaming with the scarlet curlew. At sunset, the pelicans return from the sea to the courada trees. Among the flowers are the humming-birds. The columbine, gallinaceous, and passerine tribes people the fruit-trees. At the close of day, the vampires, or winged bats, suck the blood of the traveller, and cool him by the flap of their wings. Nor has nature forgotten to amuse herself here in the composition of snakes:—the camoudi has been killed from thirty to forty feet long; he does not act by venom, but by size and convolution. The Spaniards affirm that he grows to the length of eighty feet, and that he will swallow a bull; but Spaniards love the superlative. There is a *whipsnake* of a beautiful green. The labarri snake of a dirty brown, who kills you in a few minutes.

Every lovely colour under heaven is lavished upon the counachonchi, the most venomous of reptiles, and known by the name of the *bush-master*. Man and beast, says Mr. Waterton, fly before him, and allow him to pursue an undisputed path.

We consider the following description of the various sounds in these wild regions as very striking, and done with very considerable powers of style.

'He whose eye can distinguish the various beauties of uncultivated nature, and whose ear is not shut to the wild sounds in the woods, will be delighted in passing up the river Demerara. Every now and then, the maam or tinamou sends forth one long and plaintive whistle from the depth of the forest, and then stops; whilst the yelping of the toucan, and the shrill voice of the bird called pi-pi-yo, is heard during the interval. The campanero never fails to attract the attention of the passenger: at a distance of nearly three miles you may hear this snow-white bird tolling every four or five minutes, like the distant convent bell. From six to nine in the morning, the forests resound with the mingled cries and strains of the feathered race; after this they gradually die away. From eleven to three all nature is hushed as in a midnight silence, and scarce a note is heard, saving that of the campanero and the pi-pi-yo; it is then that, oppressed by the solar heat, the birds retire to the thickest shade, and wait for the refreshing cool of evening.

'At sundown the vampires, bats, and goatsuckers, dart from their lonely retreat, and skim along the trees on the river's bank. The different kinds of frogs almost stun the ear with their hoarse and hollow sounding croaking, while the owls and goatsuckers lament and mourn all night long.

'About two hours before daybreak you will hear the red monkey moaning as though in deep distress; the houtou, a solitary bird, and only found in the thickest recesses of the forest, distinctly articulates, "houtou, houtou," in a low and plaintive tone, an hour before sunrise; the maam whistles about the same hour; the hannaquoi, pataca, and maroudi announce his near approach to the eastern horizon, and the parrots and paroquets confirm his arrival there.'—(pp. 13—15.)

Our good Quixote of Demerara is a little too fond of apostrophizing:—'Traveller! dost thou think? Reader! dost thou imagine?' Mr. Waterton should remember, that the whole merit of these violent deviations from common style depends upon their rarity, and that nothing does, for ten pages together, but the indicative mood. This fault gives an air of affectation to the writing of Mr. Waterton, which we believe to be foreign from his character and nature. We do not wish to deprive him of these indulgences altogether; but merely to put him

upon an allowance, and upon such an allowance as will give to these figures of speech the advantage of surprise and relief.

This gentleman's delight and exultation always appear to increase as he loses sight of European inventions, and comes to something purely Indian. Speaking of an Indian tribe, he says,—

'They had only one gun, and it appeared rusty and neglected; but their poisoned weapons were in fine order. Their blow-pipes hung from the roof of the hut, carefully suspended by a silk grass cord; and on taking a nearer view of them, no dust seemed to have collected there, nor had the spider spun the smallest web on them; which showed that they were in constant use. The quivers were close by them, with the jaw-bone of the fish pirai tied by a string to their brim, and a small wicker-basket of wild cotton, which hung down to the centre: they were nearly full of poisoned arrows. It was with difficulty these Indians could be persuaded to part with any of the Wourali poison, though a good price was offered for it: they gave us to understand that it was powder and shot to them, and very difficult to be procured.'—(pp. 34, 35.)

A wicker-basket of wild cotton, full of poisoned arrows, for shooting fish! This is Indian with a vengeance. We fairly admit that, in the contemplation of such utensils, every trait of civilized life is completely and effectually banished.

One of the strange and fanciful objects of Mr. Waterton's journey was, to obtain a better knowledge of the composition and nature of the *Wourali* poison, the ingredient with which the Indians poison their arrows. In the wilds of Essequibo, far away from any European settlements, there is a tribe of Indians known by the name of *Macoushi*. The *Wourali* poison is used by all the South American savages, betwixt the Amazon and the Oroonoque; but the Macoushi Indians manufacture it with the greatest skill, and of the greatest strength. A vine grows in the forest called Wourali; and from this vine, together with a good deal of nonsense and absurdity, the poison is prepared. When a native of Macoushia goes in quest of feathered game, he seldom carries his bow and arrows. It is the blow-pipe he then uses. The reed grows to an amazing length, as the part the Indians use is from 10 to 11 feet long, and no tapering can be perceived, one end being as thick as another; nor is there the slightest appearance of a knot or joint. The end which is applied to the mouth is tied round with a small silk grass cord. The arrow is from nine to ten inches long; it is made out of the leaf of a palm-tree, and pointed as

sharp as a needle: about an inch of the pointed end is poisoned: the other end is burnt to make it still harder; and wild cotton is put round it for an inch and a half. The quiver holds from 500 to 600 arrows, is from 12 to 14 inches long, and in shape like a dice-box. With a quiver of these poisoned arrows over his shoulder, and his blow-pipe in his hand, the Indian stalks into the forest in quest of his feathered game.

'These generally sit high up in the tall and tufted trees, but still are not out of the Indian's reach; for his blow-pipe, at its greatest elevation, will send an arrow three hundred feet. Silent as midnight he steals under them, and so cautiously does he tread the ground, that the fallen leaves rustle not beneath his feet. His ears are open to the least sound, while his eye, keen as that of the lynx, is employed in finding out the game in the thickest shade. Often he imitates their cry, and decoys them from tree to tree, till they are within range of his tube. Then taking a poisoned arrow from his quiver, he puts it in the blow-pipe, and collects his breath for the fatal puff.

'About two feet from the end through which he blows, there are fastened two teeth of the acouri, and these serve him for a sight. Silent and swift the arrow flies, and seldom fails to pierce the object at which it is sent. Sometimes the wounded bird remains in the same tree where it was shot, but in three minutes falls down at the Indian's feet. Should he take wing, his flight is of short duration, and the Indian, following in the direction he has gone, is sure to find him dead.

'It is natural to imagine that, when a slight wound only is inflicted, the game will make its escape. Far otherwise; the Wourali poison instantaneously mixes with blood or water, so that if you wet your finger, and dash it along the poisoned arrow in the quickest manner possible, you are sure to carry off some of the poison.

'Though three minutes generally elapse before the convulsions come on in the wounded bird, still a stupor evidently takes place sooner, and this stupor manifests itself by an apparent unwillingness in the bird to move. This was very visible in a dying fowl.'—(pp. 60—62.)

The flesh of the game is not in the slightest degree injured by the poison; nor does it appear to be corrupted sooner than that killed by the gun or knife. For the larger animals, an arrow with a poisoned spike is used.

'Thus armed with deadly poison, and hungry as the hyæna, he ranges through the forest in quest of the wild beasts' track. No hound can act a surer part. Without clothes to fetter him, or shoes to bind his feet, he observes the footsteps of the game, where an European eye could not discern the smallest vestige. He pursues it through all its turns and windings, with astonishing perseverance, and success generally crowns his efforts. The animal, after receiving the poisoned arrow, seldom retreats two hundred paces before it drops.

'In passing over land from the Essequibo to the Demerara, we fell in with a herd of wild hogs. Though encumbered with baggage, and fatigued with a hard day's walk, an Indian got his bow ready, and let fly a poisoned arrow at one of them. It entered the cheek-bone, and broke off. The wild hog was found quite dead about one hundred and seventy paces from the place where he had been shot. He afforded us an excellent and wholesome supper.'—(p. 65.)

Being a *Wourali* poison fancier, Mr. Waterton has recorded several instances of the power of his favourite drug. A sloth poisoned by it went gently to sleep, and died! a large ox, weighing one thousand pounds, was shot with three arrows; the poison took effect in four minutes, and in twenty-five minutes he was dead. The death seems to be very gentle; and resembles more a quiet apoplexy, brought on by hearing a long story, than any other kind of death. If an Indian happens to be wounded with one of these arrows, he considers it as certain death. We have reason to congratulate ourselves, that our method of terminating disputes is by sword and pistol, and not by these medicated pins; which, we presume, will become the weapons of gentlemen in the new republics of South America.

The *second* journey of Mr. Waterton, in the year 1816, was to Pernambuco, in the southern hemisphere, on the coast of Brazil, and from thence he proceeds to Cayenne. His plan was, to have ascended the Amazon from Para, and get into the Rio Negro, and from thence to have returned towards the source of the Essequibo, in order to examine the Crystal Mountains, and to look once more for Lake Parima, or the White Sea; but on arriving at Cayenne, he found that to beat up the Amazon would be long and tedious; he left Cayenne, therefore, in an American ship for Paramaribo, went through the interior to Coryntin, stopped a few days at New Amsterdam, and proceeded to Demerara.

'Leave behind you' (he says to the traveller) 'your high-seasoned dishes, your wines, and your delicacies; carry nothing but what is necessary for your own comfort, and the object in view, and depend upon the skill of an Indian, or your own, for fish and game. A sheet, about twelve feet long, ten wide, painted, and with loop-holes on each side, will be of great service: in a few minutes you can suspend it betwixt two trees in the shape of a roof. Under this, in your hammock, you may defy the pelting shower, and sleep heedless of the dews of night. A hat, a shirt, and a light pair of trowsers, will be all the raiment you require. Custom will soon teach you to tread lightly and barefoot on the little inequalities of the ground, and show you how to pass on, unwounded, amid the mantling briars.'—(pp. 112, 113.)

Snakes are certainly an annoyance; but the snake, though high-spirited, is not quarrelsome; he considers his fangs to be given for defence, and not for annoyance, and never inflicts a wound but to defend existence. If you tread upon him, he puts you to death for your clumsiness, merely because he does not understand what your clumsiness means; and certainly a snake, who feels fourteen or fifteen stone stamping upon his tail, has little time for reflection, and may be allowed to be poisonous and peevish. American tigers generally run away —from which several respectable gentlemen in Parliament inferred, in the American war, that American soldiers would run away also!

The description of the birds is very animated and interesting; but how far does the gentle reader imagine the campanero may be heard, whose size is that of a jay? Perhaps 300 yards. Poor innocent, ignorant reader! unconscious of what nature has done in the forests of Cayenne, and measuring the force of tropical intonation by the sounds of a Scotch duck! The campanero may be heard three miles!—this single little bird being more powerful than the belfry of a cathedral, ringing for a new dean—just appointed on account of shabby politics, small understanding, and good family!

'The fifth species is the celebrated campanero of the Spaniards, called dara by the Indians, and bell-bird by the English. He is about the size of the jay. His plumage is white as snow. On his forehead rises a spiral tube nearly three inches long. It is jet black, dotted all over with small white feathers. It has a communication with the palate, and when filled with air, looks like a spire; when empty, it becomes pendulous. His note is loud and clear, like the sound of a bell, and may be heard at the distance of three miles. In the midst of these extensive wilds, generally on the dried top of an aged mora, almost out of gun reach, you will see the campanero. No sound or song from any of the winged inhabitants of the forest, not even the clearly pronounced "Whip-poor-Will," from the goatsucker, causes such astonishment as the toll of the campanero.

'With many of the feathered race he pays the common tribute of a morning and an evening song; and even when the meridian sun has shut in silence the mouths of almost the whole of animated nature, the campanero still cheers the forest. You hear his toll, and then a pause for a minute, then another toll, and then a pause, again, and then a toll, and again a pause.'—(pp. 117, 118.)

It is impossible to contradict a gentleman who has been in the forests of Cayenne; but we are determined, as soon as a campanero is brought to England, to make him toll in a public place, and have the distance measured. The toucan has an

enormous bill, makes a noise like a puppy dog, and lays his eggs in hollow trees. How astonishing are the freaks and fancies of nature! To what purpose, we say, is a bird placed in the woods of Cayenne, with a bill a yard long, making a noise like a puppy dog, and laying eggs in hollow trees? The toucans, to be sure, might retort, to what purpose were gentlemen in Bond street created? To what purpose were certain foolish prating members of Parliament created?—pestering the House of Commons with their ignorance and folly, and impeding the business of the country? There is no end of such questions. So we will not enter into the metaphysics of the toucan. The houtou ranks high in beauty; his whole body is green, his wings and tail blue; his crown is of black and blue; he makes no nest, but rears his young in the sand.

'The cassique, in size, is larger than the starling; he courts the society of man, but disdains to live by his labours. When nature calls for support, he repairs to the neighbouring forest, and there partakes of the store of fruits and seeds, which she has produced in abundance for her aërial tribes. When his repast is over, he returns to man, and pays the little tribute which he owes him for his protection; he takes his station on a tree close to his house; and there, for hours together, pours forth a succession of imitative notes. His own song is sweet, but very short. If a toucan be yelping in the neighbourhood, he drops it, and imitates him. Then he will amuse his protector with the cries of the different species of the woodpecker; and when the sheep bleat, he will distinctly answer them. Then comes his own song again, and if a puppy dog or a guinea fowl interrupt him, he takes them off admirably, and by his different gestures during the time, you would conclude that he enjoys the sport.

'The cassique is gregarious, and imitates any sound he hears with such exactness, that he goes by no other name than that of mocking-bird amongst the colonists.'—(pp. 127. 128.)

There is no end to the extraordinary noises of the forest of Cayenne. The woodpecker, in striking against the tree with his bill, makes a sound so loud, that Mr. Waterton says it reminds you more of a wood-cutter than a bird. While lying in your hammock, you hear the goatsucker lamenting like one in deep distress—a stranger would take it for a Weir murdered by Thurtell.

'Suppose yourself in hopeless sorrow, begin with a high loud note, and pronounce, "ha, ha, ha, ha, ha, ha, ha," each note lower and lower, till the last is scarcely heard, pausing a moment or two betwixt every note, and you will have some idea of the moaning of the largest goatsucker in Demerara.'—(p. 141.)

One species of the goatsucker cries, 'Who are you? who

are you?' Another exclaims, 'Work away, work away.' A third, 'Willy come go, Willy come go.' A fourth, 'Whip poor Will, whip poor Will.' It is very flattering to us that they should all speak *English!*—though we cannot much commend the elegance of their selections. The Indians never destroy these birds, believing them to be the servants of Jumbo, the African devil.

Great travellers are very fond of triumphing over civilized life; and Mr. Waterton does not omit the opportunity of remarking, that nobody ever stopt him in the forests of Cayenne to ask him for his license, or to inquire if he had an hundred a year, or to take away his gun, or to dispute the limits of a manor, or to threaten him with a tropical justice of the peace. We hope, however, that in this point we are on the eve of improvement. Mr. Peel, who is a man of high character and principles, may depend upon it that the time is come for his interference, and that it will be a loss of reputation to him not to interfere. If any one else can and will carry an alteration through Parliament, there is no occasion that the hand of government should appear; but some hand *must* appear. The common people are becoming ferocious, and the perdricide criminals are more numerous than the violators of all the branches of the Decalogue.

'The king of the vultures is very handsome, and seems to be the only bird which claims regal honours from a surrounding tribe. It is a fact beyond all dispute, that when the scent of carrion has drawn together hundreds of the common vultures, they all retire from the carcass as soon as the king of the vultures makes his appearance. When his majesty has satisfied the cravings of his royal stomach with the choicest bits from the most stinking and corrupted parts, he generally retires to a neighbouring tree, and then the common vultures return in crowds to gobble down his leavings. The Indians, as well as the whites, have observed this; for when one of them, who has learned a little English, sees the king, and wishes you to have a proper notion of the bird, he says, "There is the governor of the carrion crows."

'Now, the Indians have never heard of a personage in Demerara higher than that of governor; and the colonists, through a common mistake, call the vultures carrion crows. Hence the Indian, in order to express the dominion of this bird over the common vultures, tells you he is governor of the carrion crows. The Spaniards have also observed it, for, through all the Spanish Main, he is called Rey de Zamuros, king of the vultures.'—(p. 146.)

This, we think, explains satisfactorily the origin of kingly

government. As men have 'learnt from the dog the physic of the field,' they may probably have learnt from the vulture those high lessons of policy upon which, in Europe, we suppose the whole happiness of society, and the very existence of the human race, to depend.

Just before his third journey, Mr. Waterton takes leave of Sir Joseph Banks, and speaks of him with affectionate regret. 'I saw,' (says Mr. W.) 'with sorrow, that death was going to rob us of him. We talked of stuffing quadrupeds; I agreed that the lips and nose ought to be cut off, and stuffed with wax.' This is the way great naturalists take an eternal farewell of each other! Upon stuffing animals, however, we have a word to say. Mr. Waterton has placed at the head of his book the picture of what he is pleased to consider a nondescript species of monkey. In this exhibition our author is surely abusing his stuffing talents, and laughing at the public. It is clearly the head of a master in chancery—whom we have often seen backing in the House of Commons after he has delivered his message. It is foolish thus to trifle with science and natural history. Mr. Waterton gives an interesting account of the sloth, an animal of which he appears to be fond, and whose habits he has studied with peculiar attention.

'Some years ago I kept a sloth in my room for several months. I often took him out of the house and placed him upon the ground, in order to have an opportunity of observing his motions. If the ground were rough, he would pull himself forwards, by means of his fore legs, at a pretty good pace; and he invariably shaped his course towards the nearest tree. But if I put him upon a smooth and well-trodden part of the road, he appeared to be in trouble and distress: his favourite abode was the back of a chair; and after getting all his legs in a line upon the topmost part of it, he would hang there for hours together, and often, with a low and inward cry, would seem to invite me to take notice of him.'—(p. 164.)

The sloth, in its wild state, spends its life in trees, and never leaves them but from force or accident. The eagle to the sky, the mole to the ground, the sloth to the tree; but what is most extraordinary, he lives not *upon* the branches, but *under* them. He moves suspended, rests suspended, sleeps suspended, and passes his life in suspense—like a young clergyman distantly related to a bishop. Strings of ants may be observed, says our good traveller, a mile long, each carrying in its mouth a green leaf the size of a sixpence! he does not say whether this is a loyal procession, like Oak-apple Day, or for what purpose

these leaves are carried; but it appears, while they are carrying the leaves, that three sorts of ant-bears are busy in eating them. The habits of the largest of these three animals are curious, and to us new. We recommend the account to the attention of the reader.

'He is chiefly found in the inmost recesses of the forest, and seems partial to the low and swampy parts near creeks, where the Troely tree grows. There he goes up and down in quest of ants, of which there is never the least scarcity; so that he soon obtains a sufficient supply of food, with very little trouble. He cannot travel fast; man is superior to him in speed. Without swiftness to enable him to escape from his enemies, without teeth, the possession of which would assist him in self-defence, and without the power of burrowing in the ground, by which he might conceal himself from his pursuers, he still is capable of ranging through these wilds in perfect safety; nor does he fear the fatal pressure of the serpent's fold, or the teeth of the famished jaguar. Nature has formed his fore legs wonderfully thick, and strong, and muscular, and armed his feet with three tremendous sharp and crooked claws. Whenever he seizes an animal with these formidable weapons, he hugs it close to his body and keeps it there till it dies through pressure, or through want of food. Nor does the ant-bear, in the mean time, suffer much from loss of aliment, as it is a well-known fact, that he can go longer without food than perhaps any other animal, except the land tortoise. His skin is of a texture that perfectly resists the bite of a dog; his hinder parts are protected by thick and shaggy hair, while his immense tail is large enough to cover his whole body.

'The Indians have a great dread of coming in contact with the ant-bear; and after disabling him in the chase, never think of approaching him till he be quite dead.'—(pp. 171, 172.)

The vampire measures about 26 inches from wing to wing. There are two species, large and small. The large suck men, and the smaller birds. Mr. W. saw some fowls which had been sucked the night before, and they were scarcely able to walk.

'Some years ago I went to the river Paumaron with a Scotch gentleman, by name Tarbet. We hung our hammocks in the thatched loft of a planter's house. Next morning I heard this gentleman muttering in his hammock, and now and then letting fall an imprecation or two, just about the time he ought to have been saying his morning prayers. "What is the matter, sir?" said I, softly; "is any thing amiss?"—"What's the matter?" answered he, surlily; "why, the vampires have been sucking me to death." As soon as there was light enough, I went to his hammock, and saw it much stained with blood. "There," said he, thrusting his foot out of the hammock, "see how these infernal imps have been drawing my life's blood." On exa-

mining his foot, I found the vampire had tapped his great toe: there was a wound somewhat less than that made by a leech: the blood was still oozing from it; I conjectured he might have lost from ten to twelve ounces of blood. Whilst examining it, I think I put him into a worse humour by remarking, that an European surgeon would not have been so generous as to have blooded him without making a charge. He looked up in my face, but did not say a word: I saw he was of opinion that I had better have spared this piece of ill-timed levity.'—(pp. 176, 177.)

The story which follows this account is vulgar, unworthy of Mr. Waterton, and should have been omitted.

Every animal has its enemies. The land tortoise has two enemies, man, and the boa-constrictor. The natural defence of the tortoise is to draw himself up in his shell, and to remain quiet. In this state, the tiger, however famished, can do nothing with him, for the shell is too strong for the stroke of his paw. Man, however, takes him home and roasts him—and the boa constrictor swallows him whole, shell and all, and consumes him slowly in the interior, as the Court of Chancery does a great estate.

The danger seems to be much less with snakes and wild beasts, if you conduct yourself like a gentleman, and are not abruptly intrusive. If you will pass on gently, you may walk unhurt within a yard of the Labairi snake, who would put you to death if you rushed upon him. The taguan knocks you down with a blow of his paw, if suddenly interrupted, but will run away, if you will give him time to do so. In short, most animals look upon man as a very ugly customer; and, unless sorely pressed for food, or from fear of their own safety, are not fond of attacking him. Mr. Waterton, though much given to sentiment, made a Labairi snake bite itself, but no bad consequences ensued—nor would any bad consequences ensue, if a court-martial were to order a sinful soldier to give himself a thousand lashes. It is barely possible that the snake had some faint idea whom and what he was biting.

Insects are the curse of tropical climates. The bête rouge lays the foundation of a tremendous ulcer. In a moment you are covered with ticks. Chigoes bury themselves in your flesh, and hatch a colony of young chigoes in a few hours. They will not live together, but every chigoe sets up a separate ulcer, and has his own private portion of pus. Flies get entry into your mouth, into your eyes, into your nose; you eat flies, drink flies, and breathe flies. Lizards, cockroaches,

and snakes, get into the bed; ants eat up the books; scorpions sting you on the foot. Every thing bites, stings, or bruises; every second of your existence you are wounded by some piece of animal life that nobody has ever seen before, except Swammerdam and Meriam. An insect with eleven legs is swimming in your teacup, a nondescript with nine wings is struggling in the small beer, or a caterpillar with several dozen eyes in his belly is hastening over the bread and butter! All nature is alive, and seems to be gathering all her entomological hosts to eat you up, as you are standing, out of your coat, waistcoat, and breeches. Such are the tropics. All this reconciles us to our dews, fogs, vapours, and drizzle—to our apothecaries rushing about with gargles and tinctures—to our old, British, constitutional coughs, sore throats, and swelled faces.

We come now to the counterpart of St. George and the Dragon. Every one knows that the large snake of tropical climates throws himself upon his prey, twists the folds of his body round the victim, presses him to death, and then eats him. Mr. Waterton wanted a large snake for the sake of his skin; and it occurred to him, that the success of this sort of combat depended upon who began first, and that if he could contrive to fling himself upon the snake, he was just as likely to send the snake to the British Museum, as the snake, if allowed the advantage of prior occupation, was to eat him up. The opportunities which Yorkshire squires have of combating with the boa constrictor are so few, that Mr. Waterton must be allowed to tell his own story in his own manner.

'We went slowly on in silence, without moving our arms or heads, in order to prevent all alarm as much as possible, lest the snake should glide off, or attack us in self-defence. I carried the lance perpendicularly before me, with the point about a foot from the ground. The snake had not moved; and on getting up to him, I struck him with the lance on the near side, just behind the neck, and pinned him to the ground. That moment the negro next to me seized the lance and held it firm in its place, while I dashed head foremost into the den to grapple with the snake, and to get hold of his tail before he could do any mischief.

'On pinning him to the ground with the lance, he gave a tremendous loud hiss, and the little dog ran away, howling as he went. We had a sharp fray in the den, the rotten sticks flying on all sides, and each party struggling for superiority. I called out to the second negro to throw himself upon me, as I found I was not heavy enough. He did so, and the additional weight was of great service. I had now got firm

hold of his tail; and after a violent struggle or two, he gave in, finding himself overpowered. This was the moment to secure him. So, while the first negro continued to hold the lance firm to the ground, and the other was helping me, I contrived to unloose my braces, and with them tied up the snake's mouth.

'The snake, now finding himself in an unpleasant situation, tried to better himself, and set resolutely to work, but we overpowered him. We contrived to make him twist himself round the shaft of the lance, and then prepared to convey him out of the forest. I stood at his head, and held it firm under my arm, one negro supported the belly, and the other the tail. In this order we began to move slowly towards home, and reached it after resting ten times: for the snake was too heavy for us to support him without stopping to recruit our strength. As we proceeded onwards with him, he fought hard for freedom, but it was all in vain.'—(pp. 202—204.)

One of these combats we should have thought sufficient for glory, and for the interest of the British Museum. But Hercules killed two snakes, and Mr. Waterton would not be content with less.

'There was a path where timber had formerly been dragged along. Here I observed a young coulacanara, ten feet long, slowly moving onwards; I saw he was not thick enough to break my arm, in case he got twisted round it. There was not a moment to be lost. I laid hold of his tail with the left hand, one knee being on the ground; with the right I took off my hat, and held it as you would hold a shield for defence.

'The snake instantly turned, and came on at me, with his head about a yard from the ground, as if to ask me, what business I had to take liberties with his tail. I let him come, hissing and open-mouthed, within two feet of my face, and then, with all the force I was master of, I drove my fist, shielded by my hat, full in his jaws. He was stunned and confounded by the blow, and ere he could recover himself, I had seized his throat with both hands, in such a position that he could not bite me; I then allowed him to coil himself round my body, and marched off with him as my lawful prize. He pressed me hard, but not alarmingly so.'—(pp. 206, 207.)

When the body of the large snake began to smell, the vultures immediately arrived. The king of the vultures first gorged himself, and then retired to a large tree, while his subjects consumed the remainder. It does not appear that there was any favouritism. When the king was full, all the mob vultures ate alike; neither could Mr. Waterton perceive that there was any division into Catholic and Protestant vultures, or that the majority of the flock thought it essentially vulturish to exclude one-third of their numbers from the blood and entrails. The vulture, it is remarkable, never eats live animals. He

seems to abhor every thing which has not the relish of putrescence and flavour of death. The following is a characteristic specimen of the little inconveniences to which travellers are liable, who sleep on the feather beds of the forest. To see a rat in a room in Europe insures a night of horror. Every thing is by comparison.

'About midnight, as I was lying awake, and in great pain, I heard the Indian say, 'Massa, massa, you no hear tiger?' I listened attentively, and heard the softly sounding tread of his feet as he approached us. The moon had gone down; but every now and then we could get a glance of him by the light of our fire; he was the jaguar, for I could see the spots on his body. Had I wished to have fired at him, I was not able to take a sure aim, for I was in such pain that I could not turn myself in my hammock. The Indian would have fired, but I would not allow him to do so, as I wanted to see a little more of our new visitor; for it is not every day or night that the traveller is favoured with an undisturbed sight of the jaguar in his own forests.

'Whenever the fire got low, the jaguar came a little nearer, and when the Indian renewed it, he retired abruptly; sometimes he would come within twenty yards, and then we had a view of him, sitting on his hind legs like a dog; sometimes he moved slowly to and fro, and at other times we could hear him mend his pace, as if impatient. At last the Indian, not relishing the idea of having such company in the neighbourhood, could contain himself no longer, and set up a most tremendous yell. The jaguar bounded off like a race-horse, and returned no more; it appeared by the print of his feet next morning, that he was a full-grown jaguar.'—(pp. 212, 213.)

We have seen Mr. Waterton fling himself upon a snake; we shall now mount him upon a crocodile, undertaking that this shall be the last of his feats exhibited to the reader. He had baited for a cayman or crocodile, the hook was swallowed, and the object was to pull the animal up and to secure him. 'If you pull him up,' say the Indians, 'as soon as he sees you on the brink of the river, he will run at you and destroy you.' 'Never mind,' says our traveller, 'pull away, and leave the rest to me.' And accordingly he places himself upon the shore with the mast of the canoe in his hand, ready to force it down the throat of the crocodile as soon as he makes his appearance.

'By the time the cayman was within two yards of me, I saw he was in a state of fear and perturbation; I instantly dropped the mast, sprung up, and jumped on his back, turning half round as I vaulted, so that I gained my seat with my face in a right position. I immediately seized his fore legs, and, by main force, twisted them on his back; thus they served me for a bridal.

'He now seemed to have recovered from his surprise, and probably

fancying himself in hostile company, he began to plunge furiously, and lashed the sand with his long and powerful tail. I was out of reach of the strokes of it, by being near his head. He continued to plunge and strike, and make my seat very uncomfortable. It must have been a fine sight for an unoccupied spectator.

'The people roared out in triumph, and were so vociferous, that it was some time before they heard me tell them to pull me and my beast of burden farther in land. I was apprehensive the rope might break, and then there would have been every chance of going down to the regions under water with the cayman. That would have been more perilous than Arion's marine morning ride:—

"Delphini insidens, vada cærula sulcat Arion."

'The people now dragged us above forty yards on the sand; it was the first and last time I was ever on a cayman's back. Should it be asked, how I managed to keep my seat, I would answer—I hunted some years with Lord Darlington's fox hounds.'—(pp. 231, 232.)

The Yorkshire gentlemen have long been famous for their equestrian skill; but Mr. Waterton is the first among them of whom it could be said, that he has a fine hand upon a crocodile. This accursed animal, so ridden by Mr. Waterton, is the scourge and terror of all the large rivers in South America near the line. Their boldness is such, that a cayman has sometimes come out of the Oroonoque, at Angustura, near the public walks where the people were assembled, seized a full-grown man, as big as Sir William Curtis after dinner, and hurried him into the bed of the river for his food. The governor of Angustura witnessed this circumstance himself.

Our Eboracic traveller had now been nearly eleven months in the desert, and not in vain. Shall we express our doubts, or shall we confidently state at once the immense wealth he had acquired?—a prodigious variety of insects, two hundred and thirty birds, ten land-tortoises, five armadillos, two large serpents, a sloth, an ant-bear, and a cayman. At Liverpool, the custom-house officers, men ignorant of Linnæus, got hold of his collection, detained it six weeks, and, in spite of remonstrances to the treasury, he was forced to pay very high duties. This is really perfectly absurd; that a man of science cannot bring a pickled armadillo, for a collection of natural history, without paying a tax for it. This surely must have happened in the dark days of Nicolas. We cannot doubt but that such paltry exactions have been swept away, by the manly and liberal policy of Robinson and Huskisson. That a great people should compel an individual to make them a payment

before he can be permitted to land a stuffed snake upon their shores, is, of all the paltry custom-house robberies we ever heard of, the most mean and contemptible—but *Major rerum ordo nascitur.*

The *fourth* journey of Mr. Waterton is to the United States. It is pleasantly written; but our author does not appear as much at home among men as among beasts. Shooting, stuffing, and pursuing are his occupations. He is lost in places where there are no bushes, snakes, nor Indians—but he is full of good and amiable feeling wherever he goes. We cannot avoid introducing the following passage:—

'The steamboat from Quebec to Montreal had above five hundred Irish emigrants on board. They were going "they hardly knew whither," far away from dear Ireland. It made one's heart ache to see them all huddled together, without any expectation of ever revisiting their native soil. We feared that the sorrow of leaving home for ever, the miserable accommodations on board the ship which had brought them away, and the tossing of the angry ocean, in a long and dreary voyage, would have rendered them callous to good behaviour. But it was quite otherwise. They conducted themselves with great propriety. Every American on board seemed to feel for them. And then "they were so full of wretchedness. Need and oppression stared within their eyes. Upon their backs hung ragged misery. The world was not their friend." "Poor, dear Ireland," exclaimed an aged female, as I was talking to her, "I shall never see it any more!"' —(pp. 259, 260.)

And thus it is in every region of the earth! There is no country where an Englishman can set his foot, that he does not meet these miserable victims of English cruelty and oppression—banished from their country by the stupidity, bigotry, and meanness of the English people, who trample on their liberty and conscience, because each man is afraid, in another reign, of being out of favour, and losing his share in the spoil.

We are always glad to see America praised (slavery excepted). And yet there is still, we fear, a party in this country, who are glad to pay their court to the timid and the feeble, by sneering at this great spectacle of human happiness. We never think of it without considering it as a great lesson to the people of England, to look into their own affairs, to watch and suspect their rulers, and not to be defrauded of happiness and money by pompous names, and false pretences.

'Our western brother is in possession of a country replete with

every thing that can contribute to the happiness and comfort of mankind. His code of laws, purified by experience and common sense, has fully answered the expectations of the public. By acting up to the true spirit of this code, he has reaped immense advantages from it. His advancement, as a nation, has been rapid beyond all calculation; and, young as he is, it may be remarked without any impropriety, that he is now actually reading a salutary lesson to the rest of the civilized world.'—(p. 273.)

Now, what shall we say, after all, of Mr. Waterton? That he has spent a great part of his life in wandering in the wild scenes he describes, and that he describes them with entertaining zeal and real feeling. His stories draw largely sometimes on our faith; but a man who lives in the woods of Cayenne must do many odd things, and see many odd things —things utterly unknown to the dwellers in Hackney and Highgate. We do not want to rein up Mr. Waterton too tightly—because we are convinced he goes best with his head free. But a little less of apostrophe, and some faint suspicion of his own powers of humour, would improve this gentleman's style. As it is, he has a considerable talent at describing. He abounds with good feeling; and has written a very entertaining book, which hurries the reader out of his European parlour, into the heart of tropical forests, and gives, over the rules and the cultivation of the civilized parts of the earth, a momentary superiority to the freedom of the savage, and the wild beauties of nature. We honestly recommend the book to our readers: it is well worth the perusal.

MAN TRAPS AND SPRING GUNS.

(Edinburgh Review, 1821.)

Reports of Cases argued and determined in the Court of King's Bench, in Hilary Term, 60th Geo. III. 1820. By Richard V. Barnewall, of Lincoln's Inn, Esq. Barrister-at-Law, and Edward H. Alderson, of the Inner Temple, Esq. Barrister-at-Law. Vol. III. Part II. London, 1820.

Most of our readers will remember, that we very lately published an article upon the use of steel traps and spring guns; and, in the course of discussion, had occasion to animadvert upon the report of Mr. Justice Best's judgment, in the case of Ilott and Wilkes, as reported in *Chetwynd's Edition of Burn's Justice*, published in the spring of the present year. In the Morning Chronicle, of the 4th of June, 1821, Mr. Justice Best is reported to have made the following observations in the King's Bench:—

'Mr. Justice Best said, Mr. Chetwynd's book having been mentioned by my learned brother Bayley, I must take this opportunity, not without some pain, of adverting to what I am reported, in his work, to have said in the case of Ilott *v.* Wilkes, and of correcting a most gross misrepresentation. I am reported to have concurred with the other judges, and to have delivered my judgment at considerable length, and then to have said, "This case has been discussed at the bar, as if these engines were exclusively resorted to for the protection of game; but I consider them as lawfully applicable to the protection of every species of property against unlawful trespassers." This is not what I stated; but the part which I wish more particularly to deny, as ever having said, or even conceived, is this—"But if even they might not lawfully be used for the protection of game, I, for one, should be extremely glad to adopt such means, if they were found sufficient for that purpose." I confess I am surprised that this learned person should suppose, from the note of any one, that any person who ever sat in a court of justice as a judge could talk such wicked nonsense as I am made to talk; and I am surprised that he should venture to give the authority he does for what he has published; for I find, that the reference he gives in the appendix to his book is 3 Barn. and Ald. 304, where there is a correct report of that case, and where it will be found that every word uttered by me is directly contrary to what I am supposed, by Mr. Chetwynd's statement of the case, to have said. I

don't trouble the court with reading the whole of what I did say on that occasion, but I will just say that I said—"My brother Bayley has illustrated this case by the question which he asked, namely, Can you indict a man for putting spring guns in his enclosed field? I think the question put by Lord Chief Justice Gibbs, in the case of Dean *v.* Clayton, in the Common Pleas, a still better illustration, viz. Can you justify entering into enclosed lands to take away guns so set? If both these questions must be answered in the negative, it cannot be unlawful to set spring guns in an enclosed field, at a distance from any road, giving such notice that they are set, as to render it in the highest degree probable that all persons in the neighbourhood must know that they are so set. Humanity requires that the fullest notice possible should be given; and the law of England will not sanction what is inconsistent with humanity." A popular work has quoted this report from Mr. Chetwynd's work, but has omitted this important line (which omission reminds one of the progress of a thing, the name of which one does not choose to mention), "that I had concurred in what had fallen from the other judges;" and omitting that line, they state, that one had said, "It is my opinion, that with notice, or without notice, this might be done." Now, concurring with the other judges, it is impossible I should say that. It is right that this should be corrected, not that I entertain any angry feeling, for too much time has elapsed since then for any anger to remain on my mind; but all I claim, with respect to the observations made in that work, severe as they are, (and I, for one, feel that I should deserve no mercy if I should ever entertain such doctrines,) is, that I may not be misrepresented. It is not necessary for me, in this place, to say, that no man entertains more horror of the doctrine I am supposed to have laid down than I do, that the life of man is to be treated lightly and indifferently, in comparison with the preservation of game, and the amusement of sporting; that the laws of humanity are to be violated for the sake merely of preserving the amusement of game. I am sure no man can justly impute to me such wicked doctrines. It is unnecessary for me to say, that I entertain no such sentiments; and therefore I hope I shall be excused, not on account of my own feelings, but as far as the public are interested in the character of a judge, in saying, that no person should blame a judge for what has been unjustly put into his mouth.'

His lordship's speech is reported in the New Times of the same date, as follows:—

'Mr. Justice Best said, "My brother Bayley has quoted Mr. Chetwynd's edition of Burn: I am surprised that the learned author of that work should have made me talk such mischievous nonsense, as he has given to the public, in a report of my judgment, in the case of Ilott and Wilkes. I am still more surprised, that he should have suffered this judgment to remain uncorrected, after he had seen a true report of the case in Barnewall and Alderson, to which report he has referred in his appendix." Mr. Chetwynd's report has the following passage:—"Mr. Justice Best concurred with the other judges."

His lordship concluded as follows:—"This case has been discussed at the bar, as if these inquiries were exclusively resorted to for the protection of game; but I considered them as lawfully applicable to the protection of every species of property against unlawful trespassers. *But if even they might not lawfully be used for the protection of game, I for one should be extremely glad to adopt such measures, if they were found sufficient for that purpose.*"

'A popular periodical work contains the passage just cited, with the omission of the words "concurred with the other judges." Of this omission I have reason to complain, because, if it had been inserted, the writer of the article could not have said, "It follows, that a man may put his fellow-creatures to death for any infringement of his property, for picking the sloes and blackberries off his hedges; for breaking a few dead sticks out of them by night or by day, *with resistance or without resistance, with warning or without warning.*" The judges with whom Mr. Chetwynd makes me concur in opinion, all gave their judgment on the ground of due notice being given. I do not complain of the other observations contained in this work; they would have been deserved by me had I ever uttered such an opinion as the report of Mr. Chetwynd has stated me to have delivered. The whole of what I said will be found to be utterly inconsistent with the statement, by those who will read the case in "Barnewall and Alderson." I will only trouble the court with the passage which will be found in the report of my judgment, in "3 Barnewall and Alderson, 319:"—"It cannot be unlawful to set spring guns in an enclosed field, at a distance from any road, giving such notice that they are set, as to render it in the highest degree probable that all persons in the neighbourhood must know that they are so set. Humanity required that the fullest notice possible should be given; and the law of England will not sanction what is inconsistent with humanity." I have taken the first opportunity of saying this, because I think it of importance to the public that such a misrepresentation of the opinion of one of the judges should not be circulated without some notice.'

We subjoin the report of Messrs. Barnewall and Alderson, here alluded to, and allowed by Mr. Justice Best to be correct.

'*Best* J. The act of the plaintiff could only occasion mere nominal damage to the wood of the defendant. The injury that the plaintiff's trespass has brought upon himself is extremely severe. In such a case, one cannot, without pain, decide against the action. But we must not allow our feelings to induce us to lose sight of the principles which are essential to the rights of property. The prevention of intrusion upon property is one of these rights; and every proprietor is allowed to use the force that is *absolutely* necessary to vindicate it. If he uses more force than is *absolutely* necessary, he renders himself responsible for all the consequences of the excess. Thus, if a man comes on my land, I cannot lay hands on him to remove him, until I have desired him to go off. If he will not depart on request, I cannot proceed immediately to beat him, but must endeavour to push him off. If he is too powerful for me, I cannot use a dangerous weapon, but

must first call in aid other assistance. I am speaking of out-door property, and of cases in which no felony is to be apprehended. It is evident, also, that this doctrine is only applicable to trespasses committed in the presence of the owner of the property trespassed on. When the owner and his servants are absent at the time of the trespass, it can only be repelled by the terror of spring guns, or other instruments of the same kind. There is, in such cases, no possibility of proportioning the resisting force to the obstinacy and violence of the trespasser, as the owner of the close may and is required to do where he is present. There is no distinction between the mode of defence of one species of out-door property and another (except in cases where the taking or breaking into the property amounts to felony). If the owner of woods cannot set spring guns in his woods, the owner of an orchard, or of a field with potatoes or turnips, or any other crop usually the object of plunder, cannot set them in such field. How, then, are these kinds of property to be protected, at a distance from the residence of the owner, in the night, and in the absence of his servants? It has been said, that the law has provided remedies for any injuries to such things by action. But the offender must be detected before he can be subjected to an action; and the expense of continual watching for this purpose would often exceed the value of the property to be protected. If we look at the subject in this point of view, we may find, amongst poor tenants, who are prevented from paying their rents by the plunder of their crops, men who are more objects of our compassion than the wanton trespasser, who brings on himself the injury which he suffers. If an owner of a close cannot set spring guns, he cannot put glass bottles or spikes on the top of a wall, or even have a savage dog, to prevent persons from entering his yard. It has been said, in argument, that you may see the glass bottles or spikes; and it is admitted, that if the exact spot where these guns are set was pointed out to the trespasser, he could not maintain any action for the injury he received from one of them. As to seeing the glass bottles or spikes, that must depend on the circumstance whether it be light or dark at the time of the trespass. But what difference does it make, whether the trespasser be told the gun is set in such a spot, or that there are guns in different parts of such a field, if he has no right to go on any part of that field? It is absurd to say you may set the guns, provided you tell the trespasser exactly where they are set, because then the setting them could answer no purpose. My brother *Bayley* has illustrated this case, by the question which he asked, namely, Can you indict a man for putting spring guns in his enclosed field? I think the question put by Lord C. J. *Gibbs*, in the case of the Common Pleas, a still better illustration, viz. Can you justify entering into enclosed lands, to take away guns so set? If both these questions must be answered in the negative, it cannot be unlawful to set spring guns in an enclosed field, at a distance from any road, giving such notice that they are set, as to render it in the highest degree probable that all persons in the neighbourhood must know that they are so set. Humanity requires that the fullest notice possible should be given: and the law of *England* will not sanction what is

inconsistent with humanity. It has been said in argument, that it is a principle of law, that you cannot do indirectly what you are not permitted to do directly. This principle is not applicable to the case. You cannot shoot a man that comes on your land, because you may turn him off by means less hurtful to him; and, therefore, if you saw him walking in your field, and were to invite him to proceed on his walk, knowing that he must tread on a wire, and so shoot himself with a spring gun, you would be liable to all the consequences that would follow. The invitation to him to pursue his walk is doing indirectly what, by drawing the trigger of a gun with your own hand, is done directly. But the case is just the reverse, if, instead of inviting him to walk on your land, you tell him to keep off, and warn him of what will follow if he does not. It is also said, that it is a maxim of law, that you must so use your own property as not to injure another's. This maxim I admit; but I deny its application to the case of a man who comes to trespass on my property. It applies only to cases where a man has only a transient property, such as in the air or water that passes over his land, and which he must not corrupt by nuisance; or where a man has a qualified property, as in land near another's ancient windows, or in land over which another has a right of way. In the first case, he must do nothing on his land to stop the light of the windows, or, in the second, to obstruct the way. This case has been argued, as if it appeared in it that the guns were set to preserve game; but that is not so: they were set to prevent trespasses on the lands of the defendant. Without, however, saying in whom the property of game is vested, I say, that a man has a right to keep persons off his lands, in order to preserve the game. Much money is expended in the protection of game; and it would be hard, if, in one night, when the keepers are absent, a gang of poachers might destroy what has been kept at so much cost. If you do not allow men of landed estates to preserve their game, you will not prevail on them to reside in the country. Their poor neighbours will thus lose their protection and kind offices; and the government the support that it derives from an independent, enlightened, and unpaid magistracy.'

As Mr. Justice Best denies that he did say what a very respectable and grave law publication reported him to have said, and as Mr. Chetwynd and his reporter have made no attempt to vindicate their report, of course our observations cease to be applicable. There is certainly nothing in the term report of Mr. Justice Best's speech which calls for any degree of moral criticism;—nothing but what a respectable and temperate judge might fairly have uttered. Had such been the report cited in Burn, it never would have drawn from us one syllable of reprehension.

We beg leave, however, to observe, that we have never said that it was Mr. Justice Best's opinion, as reported in Chetwynd, that a man might be put to death *without notice*,

but without *warning;* by which we meant a very different thing. If notice was given on boards, that certain grounds were guarded by watchmen with fire-arms, the watchmen, feeling perhaps some little respect for human life, would probably call out to the man to stand and deliver himself up:—'Stop, or I'll shoot you!' 'Stand, or you are a dead man!'—or some such compunctious phrases as the law compels living machines to use. But the trap can give no such warning—can present to the intruder no alternative of death or surrender. Now these different modes of action in the dead or the living guard, is what we alluded to in the words *without warning.* We meant to characterize the ferocious, unrelenting nature of the means used—and the words are perfectly correct and applicable, after all the printed *notices* in the world. Notice is the communication of something about to happen, after some little interval of time. Warning is the communication of some imminent danger. Nobody gives another notice that he will immediately shoot him through the head—or warns him that he will be a dead man in less than thirty years. This, and not the disingenuous purpose ascribed to us by Mr. Justice Best, is the explanation of the offending words. We are thoroughly aware that Mr. Justice Best was an advocate for notice, and never had the most distant intention of representing his opinion otherwise: and we really must say, that (if the report had been correct) there never was a judicial speech where there was so little necessity for having recourse to the arts of misrepresentation. We are convinced, however, that the report is not correct—and we are heartily glad it is not. There is in the Morning Chronicle an improper and offensive phrase, which (now we know Mr. Justice Best's style better) we shall attribute to the reporters, and pass over without further notice. It would seem, from the complaint of the learned judge, that we had omitted something in the middle of the quotation from Chetwynd; whereas we have quoted every word of the speech as Chetwynd has given it, and only began our quotation after the preliminary observations, because we had not the most distant idea of denying that Mr. Justice Best considered ample notice as necessary to the legality of these proceedings.

There are passages in the Morning Chronicle already quoted, and in the term report, which we must take the liberty of putting in juxtaposition to each other.

Mr. Justice Best in the Morning Chronicle of the 4th of June, 1821.

It is not necessary for me in this place to say, that no man entertains more horror of the doctrine I am supposed to have laid down, than I do, that the life of man is to be treated lightly and indifferently, in comparison with the preservation of game and the amusement of sporting—that the laws of humanity are to be violated for the sake merely of preserving the amusement of game. I am sure no man can justly impute to me such wicked doctrines; it is unnecessary for me to say I entertain no such sentiments.

In Barnewall and Alderson there is a correct report of that case. —*Morn. Chron.*

Mr. Justice Best in the Term Reports, Barnewall and Alderson.

When the owner and his servants are absent at the time of the trespass, it can only be repelled by the terror of spring guns, or other instruments of the same kind. There is, in such cases, no possibility of proportioning the resisting force to the obstinacy and violence of the trespasser, as the owner of the close may, and is required to do, when he is present.—317.

Without saying in whom the property of game is vested, I say that a man has a right to keep persons off his lands, in order to preserve the game. Much money is expended on the protection of game; and it would be hard if, in one night, when the *keepers are absent*, a gang of poachers might destroy what has been kept at so much cost.—320.

If an owner of a close cannot set spring guns, he cannot put glass bottles or spikes on the top of a wall.—318.

If both these questions must be answered in the negative, it cannot be unlawful to set spring guns in an enclosed field, at a distance from any road; giving such notice that they are set, as to render it in the highest degree probable that all persons in the neighbourhood must know they are so set. Humanity requires that the fullest notice possible should be given; and the law of England will not sanction what is inconsistent with humanity.—*Barnewall and Alderson,* 319.

There is, perhaps, some litttle inconsistency in these opposite extracts; but we have not the smallest wish to insist upon it. We are thoroughly and honestly convinced, that Mr. Justice Best's horror at the destruction of human life for the mere preservation of game is quite sincere. It is impossible, indeed, that any human being, of common good nature, could entertain a different feeling upon the subject, when it is earnestly pressed upon him; and though, perhaps, there may be judges upon the bench more remarkable for imperturbable apathy, we never heard Mr. Justice Best accused of ill nature. In condescending to notice our observations, in destroying the credit of Chetwynd's report, and in withdrawing the canopy of his name

from the bad passions of country gentlemen, he has conferred a real favour upon the public.

Mr. Justice Best, however, must excuse us for saying, that we are not in the slightest degree convinced by his reasoning. We shall suppose a fifth judge to have delivered his opinion in the case of *Ilott against Wilkes*, and to have expressed himself in the following manner. But we must caution Mr. Chetwynd against introducing this fifth judge in his next edition of Burn's Justice; and we assure him that he is only an imaginary personage.

'My Brother Best justly observes, that prevention of intrusion upon private property is a right which every proprietor may act upon, and use force to vindicate—the force absolutely necessary for such vindication. If any man intrude upon another's lands, the proprietor must first desire him to go off, then lay hands upon the intruder, then push him off; and if that will not do, call in aid other assistance, before he uses a dangerous weapon. If the proprietor uses more force than is absolutely necessary, he renders himself responsible for all the consequences of the excess. In this doctrine I cordially concur; and admire (I am sure, with him) the sacred regard which our law everywhere exhibits for the life and safety of man—its tardiness and reluctance to proceed to extreme violence: but my learned brother then observes as follows:—"It is evident, also, that this doctrine is only applicable to trespasses committed in the presence of the owner of the property trespassed upon. When the owner and his servants are absent at the time of the trespass, it can only be repelled by the terror of spring guns, or other instruments of the same kind." If Mr. Justice Best means, by the *terror of the spring guns*, the mere alarm that the notice excites—or the powder without the bullets—noise without danger—it is not worth while to raise an argument upon the point; for, absent or present, notice or no notice, such means must always be lawful. But if my brother Best means that in the absence of the proprietor, the intruder may be killed by such instruments, after notice, this is a doctrine to which I never can assent; because it rests the life and security of the trespasser upon the accident of the proprietor's presence. In that presence there must be a most cautious and nicely graduated scale of admonition and harmless compulsion; the feelings and safety of the intruder are to be studiously consulted; but if business or pleasure call the

proprietor away, the intruder may be instantly shot dead by machinery. Such a state of law, I must be permitted to say, is too incongruous for this or any other country.

'If the alternative is the presence of the owner and his servants or such dreadful consequences as these, why are the owner or his servants allowed to be absent? If the ultimate object in preventing such intrusions is pleasure in sporting, it is better that pleasure should be rendered more expensive, than that the life of man should be rendered so precarious. But why is it impossible to proportion the resisting force to the obstinacy of the trespasser in the absence of the proprietor? Why may not an intruder be let gently down into five feet of liquid mud?—why not caught in a box which shall detain him till the next morning?—why not held in a toothless trap till the proprietor arrives?—such traps as are sold in all the iron shops in this city? We are bound, according to my brother Best, to inquire if these means have been previously resorted to; for upon his own principle, greater violence must not be used, where less will suffice for the removal of the intruder.

'There are crops, I admit, of essential importance to agriculture, which will not bear the expense of eternal vigilance; and if there are districts where such crops are exposed to such serious and disheartening depredation, that may be a good reason for additional severity; but then it must be the severity of the legislator, and not of the proprietor. If the legislature enacts fine and imprisonment as the punishment for stealing turnips, it is not to be endured that the proprietor should award to this crime the punishment of death. If the fault is not sufficiently prevented by the punishments already in existence, he must wait till the frequency and flagrancy of the offence attract the notice, and stimulate the penalties of those who make laws. He must not make laws (and those very bloody laws) for himself.

'I do not say that the setter of the trap or gun allures the trespasser into it; but I say that the punishment he intends for the man who trespasses after notice, is death. He covers his spring gun with furze and heath, and gives it the most natural appearance he can; and in that gun he places the slugs by which he means *to kill* the trespasser. This killing of an unchallenged, unresisting person, I really cannot help considering to be as much murder as if the proprietor had shot the trespasser with his gun. Giving it all the attention in my

power, I am utterly at a loss to distinguish between the two cases. Does it signify whose hand or whose foot pulls the string which moves the trigger?—the real murderer is he who prepares the instrument of death, and places it in a position that such hand or foot may touch it, for the purposes of destruction. My brother Holroyd says, the trespasser who has had a notice of guns being set in the wood is the real voluntary agent who pulls the trigger. But I most certainly think that he is not. He is the animal agent, but not the rational agent—he does not intend to put himself to death; but he foolishly trusts in his chance of escaping, and is any thing but a voluntary agent in firing the gun. If a trespasser were to rush into a wood, meaning to seek his own destruction—to hunt for the wire, and when found, to pull it, he would indeed be the agent, in the most philosophical sense of the word. But, after entering the wood, he does all he can to avoid the gun—keeps clear of every suspicious place, and is baffled only by the superior cunning of him who planted the gun. How the firing of the gun then can be called his act—his voluntary act—I am at a loss to conceive. The practice has unfortunately become so common, that the first person convicted of such a murder, and acting under the delusion of right, might be a fit object for royal mercy. Still, in my opinion, such an act must legally be considered as murder.

'It has been asked, if it be an indictable offence to set such guns in a man's own ground: but let me first put a much greater question—Is it murder to kill any man with such instruments? If it is, it must be indictable to set them. To place an instrument for the purpose of committing murder, and to surrender (as in such cases you must surrender) all control over its operation, is clearly an indictable offence.

'All my brother judges have delivered their opinions as if these guns were often set for the purposes of terror, and not of destruction. To this I can only say, that the moment any man puts a bullet into his spring gun, he has some other purpose than that of terror; and if he does not put a bullet there, he never can be the subject of argument in this court.

'My Lord Chief Justice can see no distinction between the case of tenter-hooks upon a wall, and the placing of spring guns, as far as the lawfulness of both is concerned. But the distinctions I take between the case of tenter-hooks upon a wall, and the setting of spring guns, are founded—1st, in the

magnitude of the evil inflicted; 2dly, in the great difference of the notice which the trespasser receives; 3dly, in the very different evidence of criminal intention in the trespasser; 4thly, in the greater value of the property invaded; 5thly, in the greater antiquity of the abuse. To cut the fingers, or to tear the hand, is of course a more pardonable injury than to kill. The trespasser, in the daytime, sees the spikes; and by day or night, at all events, he sees or feels the wall. It is impossible he should not understand the nature of such a prohibition, or imagine that his path lies over this wall; whereas the victim of the spring gun may have gone astray, may not be able to read, or may first cross the armed soil in the night time, when he cannot read;—and so he is absolutely without any notice at all. In the next place, the slaughtered man may be perfectly innocent in his purpose, which the scaler of the walls cannot be. No man can get to the top of a garden wall without a criminal purpose. A garden, by the common consent and feeling of mankind, contains more precious materials than a wood, or a field, and may seem to justify a greater jealousy and care. Lastly, and for these reasons, perhaps, the practice of putting spikes and glass bottles has prevailed for this century past; and the right so to do has become, from time, and the absence of cases, (for the plaintiff, in such a case, must acknowledge himself a thief,) inveterate. But it is quite impossible, because in some trifling instances, and in much more pardonable circumstances, private vengeance has usurped upon the province of law, that I can, from such slight abuses, confer upon private vengeance the power of life and death. On the contrary, I think it my imperious duty to contend, that punishment for such offences as these is to be measured by the law, and not by the exaggerated notions which any individual may form of the importance of his own pleasures. It is my duty, instead of making one abuse a reason for another, to recall the law back to its perfect state, and to restrain as much as possible the invention and use of private punishments. Indeed, if this wild sort of justice is to be tolerated, I see no sort of use in the careful adaptation of punishments to crimes, in the humane labours of the lawgiver. Every lord of a manor is his own Lycurgus, or rather his own Draco, and the great purpose of civil life is defeated. *Inter nova tormentorum genera machinasque exitiales, silent leges.*

'Whatever be the law, the question of humanity is a sepa-

rate question. I shall not state all I think of that person, who, for the preservation of game, would doom the innocent —or the guilty intruder, to a sudden death. I will not, however (because I am silent respecting individuals), join in any undeserved panegyric of the humanity of the English law. I cannot say, at the same moment, that the law of England allows such machines to be set after public notice; and that the law of England sanctions nothing but what is humane. If the law sanctions such practices, it sanctions, in my opinion, what is to the last degree odious, unchristian, and inhumane.

'The case of the dog or bull I admit to be an analogous case to this: and I say, if a man were to keep a dog of great ferocity and power, for the express purpose of guarding against trespass in woods or fields, and that dog was *to kill* a trespasser, it would be murder in the person placing him there for such a purpose. It is indifferent to me whether the trespasser is slain by animals or machines, intentionally brought there for that purpose: he ought not to be *slain* at all. It is murder to use such a punishment for such an offence. If a man puts a ferocious dog in his *yard*, to guard his *house* from burglary, and that dog strays into the neighbouring field and there worries the man, there wants, in this case, the murderous and malicious spirit. The dog was placed in the yard for the legal purpose of guarding the house against burglary; for which crime, if caught in the act of perpetrating it, a man may legally be put to death. There was no primary intention here of putting *a mere trespasser* to death. So, if a man keep a ferocious bull, not for agricultural purposes, but for the *express purpose* of repelling trespassers, and that bull occasion the death of a trespasser, it is murder: the *intentional infliction of death by any means for such sort of offences constitutes the murder:* a right to kill for such reasons cannot be acquired by the foolhardiness of the trespasser, nor by any sort of notice or publicity. If a man were to blow a trumpet all over the country, and say that he would shoot any man who asked him how he did, would he acquire a right to do so by such notice? Does mere publication of an unlawful intention make the action lawful which follows? If notice is the principle which consecrates this mode of destroying human beings, I wish my brothers had been a little more clear, or a little more unanimous, as to what is meant by this notice. Must the notice be always actual, or is it sufficient that it is

probable? May these guns act only against those who *have* read the notice, or against all who *might* have read the notice? The truth is, that the practice is so enormous, and the opinions of the most learned men so various, that a declaratory law upon the subject is imperiously required.* Common humanity required it, after the extraordinary difference of opinion which occurred in the case of Dean and Clayton.

'For these reasons, I am compelled to differ from my learned brothers. We have all, I am sure, the common object of doing justice in such cases as these; we can have no possible motive for doing otherwise. Where such a superiority of talents and numbers is against me, I must of course be wrong; but I think it better to publish my own errors, than to subscribe to opinions of the justice of which I am not convinced. To destroy a trespasser with such machines, I think would be murder; to set such uncontrollable machines for the purpose of committing this murder, I think would be indictable; and I am, therefore, of opinion, that he who suffers from such machines has a fair ground of action, in spite of any notice; for it is not in the power of notice to make them lawful.'

* This has been done.

HAMILTON'S METHOD OF TEACHING LANGUAGES.

(Edinburgh Review, 1826.)

1. *The Gospel of St. John, in Latin, adapted to the Hamiltonian System, by an Analytical and Interlineary Translation.* Executed under the immediate Direction of James Hamilton. London, 1824.
2. *The Gospel of St. John, adapted to the Hamiltonian System, by an Analytical and Interlineary Translation from the Italian, with full Instructions for its Use, even by those who are wholly ignorant of the Language. For the Use of Schools.* By James Hamilton, Author of the Hamiltonian System. London, 1825.

We have nothing whatever to do with Mr. Hamilton personally. He may be the wisest or the weakest of men; most dexterous or most unsuccessful in the exhibition of his system; modest and proper, or prurient and preposterous in its commendation;—by none of these considerations is his system itself affected.

The proprietor of Ching's Lozenges must necessarily have recourse to a newspaper, to rescue from oblivion the merit of his vermifuge medicines. In the same manner, the Amboyna tooth-powder must depend upon the Herald and the Morning Post. Unfortunately, the system of Mr. Hamilton has been introduced to the world by the same means, and has exposed itself to those suspicions which hover over splendid discoveries of genius, detailed in the daily papers, and sold in sealed boxes at an infinite diversity of prices—but with a perpetual inclusion of the stamp, and with an equitable discount for undelayed payment.

It may have been necessary for Mr. Hamilton to have had recourse to these means of making known his discoveries, since he may not have had friends whose names and authority might have attracted the notice of the public; but it is a misfortune to which his system has been subjected, and a difficulty which it has still to overcome. There is also a singular and somewhat ludicrous condition of giving *warranted lessons;*

by which is meant, we presume, that the money is to be returned, if the progress is not made. We should be curious to know how poor Mr. Hamilton would protect himself from some swindling scholar, who, having really learnt all that the master professed to teach, should counterfeit the grossest ignorance of the Gospel of St. John, and refuse to construe a single verse, or to pay a farthing?

Whether Mr. Hamilton's translations are good or bad, is not the question. The point to determine is, whether very close interlineal translations are helps in learning a language? not whether Mr. Hamilton has executed these translations faithfully and judiciously. Whether Mr. Hamilton is or is not the inventor of the system which bears his name, and what his claims to originality may be, are also questions of very second-rate importance; but they merit a few observations. That man is not the discoverer of any art who first says the thing; but he who says it so long, and so loud, and so clearly, that he compels mankind to hear him—the man who is so deeply impressed with the importance of the discovery that he will take no denial, but, at the risk of fortune and fame, pushes through all opposition, and is determined that what he thinks he has discovered shall not perish for want of a fair trial. Other persons had noticed the effect of coal-gas in producing light; but Winsor worried the town with bad English for three winters before he could attract any serious attention to his views. Many persons broke stone before Macadam, but Macadam felt the discovery more strongly, stated it more clearly, persevered in it with greater tenacity, wielded his hammer, in short, with greater force than other men, and finally succeeded in bringing his plan into general use.

Literal translations are not only not used in our public schools, but are generally discountenanced in them. A literal translation, or any translation of a school-book, is a contraband article in English schools, which a schoolmaster would instantly seize, as a custom-house officer would a barrel of gin. Mr. Hamilton, on the other hand, maintains, by books and lectures, that all boys ought to be allowed to work with literal translations, and that it is by far the best method of learning a language. If Mr. Hamilton's system is just, it is sad trifling to deny his claim to originality, by stating that Mr. Locke has said the same thing, or that others have said

the same thing, a century earlier than Hamilton. They have all said it so feebly, that their observations have passed *sub silentio;* and if Mr. Hamilton succeeds in being heard and followed, to him be the glory—because from him have proceeded the utility and the advantage.

The works upon this subject on this plan, published before the time of Mr. Hamilton, are Montanus's edition of the Bible, with Pignini's interlineary Latin version; Lubin's New Testament having the Greek interlined with Latin and German; Abbé L'Olivet's Pensées de Ciceron; and a French work by the Abbé Radonvilliers, Paris, 1768—and Locke upon Education.

One of the first principles of Mr. Hamilton is, to introduce very strict literal, interlinear translations, as aids to lexicons and dictionaries, and to make so much use of them as that the dictionary or lexicon will be for a long time little required. We will suppose the language to be the Italian, and the book selected to be the Gospel of St. John. Of this Gospel Mr. Hamilton has published a key, of which the following is an extract:—

'1 Nel principio era il Verbo, e il Verbo era appresso
In the beginning was the Word, and the Word was near to
Dio, e il Verbo era Dio.
God, and the Word was God.

'2 Questo era nel principio appresso Dio.
This was in the beginning near to God.

'3 Per mezzo di lui tutte le cose furon fatte: e senza
By means of him all the things were made: and without
di lui nulla fu fatto di ciò, che è stato fatto.
of him nothing was made of that, which is been made.

'4 In lui era la vita, e la vita era la luce degli
In him was the life, and the life was the light of the
uomini:
men:

'5 E la luce splende tra le tenebre, e le tenebre
And the light shines among the darknesses, and the darknesses
hanno non ammessa la.
have not admitted her.

'6 Vi fu un uomo mandato da Dio che nomava si
There was a man sent by God, who did name himself
Giovanni.
John.

'7 Questi venne qual testimone, affin di rendere testi-
This came like as witness, in order of to render testi-
monianza alla luce, onde per mezzo di lui tutti credessero.
mony to the light, whence by means of him all might believe.'

In this way Mr. Hamilton contends (and appears to us to contend justly), that the language may be acquired with much greater ease and despatch, than by the ancient method of beginning with grammar, and proceeding with the dictionary. We will presume at present, that the only object is to read, not to write, or speak Italian, and that the pupil instructs himself from the key without a master, and is not taught in a class. We wish to compare the plan of finding the English word in such a literal translation, to that of finding it in dictionaries—and the method of ending with grammar, or of taking the grammar at an advanced period of knowledge in the language, rather than at the beginning. Every one will admit, that of all the disgusting labours of life, the labour of lexicon and dictionary is the most intolerable. Nor is there a greater object of compassion than a fine boy, full of animal spirits, set down in a bright sunny day, with an heap of unknown words before him, to be turned into English, before supper, by the help of a ponderous dictionary alone. The object in looking into a dictionary can only be to exchange an unknown sound for one that is known. Now, it seems indisputable, that the sooner this exchange is made the better. The greater the number of such exchanges which can be made in a given time, the greater is the progress, the more abundant the *copia verborum* obtained by the scholar. Would it not be of advantage if the dictionary at once opened at the required page, and if a self-moving index at once pointed to the requisite word? Is any advantage gained to the world by the time employed first in finding the letter P, and then in finding the three guiding letters P R I? This appears to us to be pure loss of time, justifiable only if it is inevitable; and even after this is done, what an infinite multitude of difficulties are heaped at once upon the wretched beginner! Instead of being reserved for his greater skill and maturity in the language, he must employ himself in discovering in which of many senses which his dictionary presents the word is to be used; in considering the case of the substantive, and the syntaxical arrangement in which it is to be placed, and the relation it bears to other words. The loss of time in the merely mechanical part of the old plan is immense. We doubt very much, if an average boy, between ten and fourteen, will look out or find more than sixty words in an hour; we say nothing at present of the time employed in thinking of the meaning

of each word when he has found it, but of the mere naked discovery of the word in the lexicon or dictionary. It must be remembered, we say an *average* boy—not what Master Evans, the show boy, can do, nor what Master Macarthy, the boy who is whipt every day, can do, but some boy between Macarthy and Evans; and not what this medium boy can do, while his mastigophorous superior is frowning over him; but what he actually does, when left in the midst of noisy boys, and with a recollection, that, by sending to the neighbouring shop, he can obtain any quantity of unripe gooseberries upon credit. Now, if this statement be true, and if there are 10,000 words in the Gospel of St. John, here are 160 hours employed in the mere digital process of turning over leaves! But, in much less time than this, any boy of average quickness might learn, by the Hamiltonian method, to construe the whole four Gospels, with the greatest accuracy, and the most scrupulous correctness. The interlineal translation of course spares the trouble and time of this mechanical labour. Immediately under the Italian word is placed the English word. The unknown sound therefore is *instantly* exchanged for one that is known. The labour here spared is of the most irksome nature; and it is spared at a time of life the most averse to such labour; and so painful is this labour to many boys, that it forms an insuperable obstacle to their progress. They prefer to be flogged, or to be sent to sea. It is useless to say of any medicine that it is valuable, if it is so nauseous that the patient flings it away. You must give me, not the best medicine you have in your shop, but the best you can get me to take.

We have hitherto been occupied with finding the word; we will now suppose, after running a dirty finger down many columns, and after many sighs and groans, that the word is found. We presume the little fellow working in the true orthodox manner without any translation; he is in pursuit of the Greek word Βαλλω, and, after a long chase, seizes it as greedily as a bailiff possesses himself of a fugacious captain. But alas! the vanity of human wishes!—the never sufficiently to be pitied stripling has scarcely congratulated himself upon his success, when he finds Βαλλω to contain the following meanings in Hederick's Lexicon:—1. Jacio; 2. Jaculor; 3. Ferio; 4. Figo; 5. Saucio; 6. Attingo; 7. Projicio; 8. Emitto; 9. Profundo; 10. Pono; 11. Immitto; 12. Trado;

13. Committo; 14. Condo; 15. Ædifico; 16. Verso; 17. Flecto. Suppose the little rogue, not quite at home in the Latin tongue, to be desirous of affixing English significations to these various words, he has then, at the moderate rate of six meanings to every Latin word, one hundred and two meanings to the word Βαλλω; or if he is content with the Latin, he has then only seventeen.*

Words, in their origin, have a natural or primary sense. The accidental associations of the people who use it, afterwards give to that word a great number of secondary meanings. In some words the primary meaning is very common, and the secondary meaning very rare. In other instances it is just the reverse; and in very many the particular secondary meaning is pointed out by some preposition which accompanies it, or some case by which it is accompanied. But an accurate translation points these things out gradually as it proceeds. The common and most probable meanings of the word Βαλλω, or of any other word, are, in the Hamiltonian method, insensibly but surely fixed on the mind, which, by the lexicon method, must be done by a tentative process, frequently ending in gross error, noticed with peevishness, punished with severity, consuming a great deal of time, and for the most part only corrected, after all, by the accurate *vivâ voce* translation of the master—or, in other words, by the Hamiltonian method.

The recurrence to a translation is treated in our schools, as a species of imbecility and meanness; just as if there was any other dignity here than utility, any other object in learning languages, than to turn something you do not understand, into something you do understand, and as if that was not the best method which effected this object in the shortest and simplest manner. Hear upon this point the judicious Locke:—'But if such a man cannot be got, who speaks good Latin, and being

* In addition to the other needless difficulties and miseries entailed upon children who are learning languages, their Greek Lexicons give a Latin instead of an English translation; and a boy of twelve or thirteen years of age, whose attainments in Latin are of course but moderate, is expected to make it the vehicle of knowledge for other languages. This is setting the short-sighted and blear-eyed to lead the blind; and is one of those afflicting pieces of absurdity which escape animadversion, because they are, and have long been, of daily occurrence. Mr. Jones has published an English and Greek Lexicon, which we recommend to the notice of all persons engaged in education, and not sacramented against all improvement.

able to instruct your son in all these parts of knowledge, will undertake it by this method, the next best is to have him taught as near this way as may be—which is by taking some easy and pleasant book, such as Æsop's Fables, and writing the English translation (made as literal as it can be) in one line, and the Latin words which answer each of them just over it in another. These let him read every day over and over again, till he perfectly understands the Latin; and then go on to another fable, till he be also perfect in that, not omitting what he is already perfect in, but sometimes reviewing that, to keep it in his memory; and when he comes to write, let these be set him for copies, which, with the exercise of his hand, will also advance him in Latin. This being a more imperfect way than by talking Latin unto him, the formation of the verbs first, and afterwards the declensions of the nouns and pronouns perfectly learned by heart, may facilitate his acquaintance with the genius and manner of the Latin tongue, which varies the signification of verbs and nouns, not as the modern languages do, by particles prefixed, but by changing the last syllables. More than this of grammar I think he need not have till he can read himself "Sanctii Minerva"—with Scioppius and Perigonius's notes.'—*Locke on Education*, p. 74, folio.

Another recommendation which we have not mentioned in the Hamiltonian system is, that it can be combined, and is constantly combined, with the system of Lancaster. The Key is probably sufficient for those who have no access to classes and schools: but in an Hamiltonian school during the lesson, it is not left to the option of the child to trust to the Key alone. The master stands in the middle, translates accurately and literally the whole verse, and then asks the boys the English of separate words, or challenges them to join the words together, as he has done. A perpetual attention and activity is thus kept up. The master, or a scholar (turned into a temporary Lancasterian master), acts as a living lexicon; and, if the thing is well done, as a lively and animating lexicon. How is it possible to compare this with the solitary wretchedness of a poor lad of the desk and lexicon, suffocated with the nonsense of grammarians, overwhelmed with every species of difficulty disproportioned to his age, and driven by despair to peg top, or marbles?

'Taking these principles as a basis, the teacher forms his class of *eight, ten, twenty*, or *one hundred*. The number is of little moment, it

being as easy to teach a greater as a smaller one, and brings them at once to the language itself, by reciting, with a loud articulate voice, the first verse thus:—*In* in, *principio* in beginning, *Verbum* Word, *erat* was, *et* and, *Verbum* Word, *erat* was, *apud* at, *Deum* God, *et* and, *Verbum* Word, *erat* was, *Deus* God. Having recited the verse once or twice himself, it is then recited *precisely* in the same manner by any person of the class whom he may judge most capable; the person copying his manner and intonations as much as possible.—When the verse has been thus recited, by *six* or *eight* persons of the class, the teacher recites the 2d verse in the same manner, which is recited as the former by any members of the class; and thus continues until he has recited from *ten* to *twelve* verses, which usually constitute the first lesson of one hour.—In three lessons, the first Chapter may be thus readily translated, the teacher gradually diminishing the number of repetitions of the same verse till the *fourth* lesson, when each member of the class translates his verse in turn from the mouth of the teacher; from which period *fifty*, *sixty*, or even *seventy*, verses may be translated in the time of a lesson, or one hour. At the *seventh* lesson, it is invariably found that the class can translate without the assistance of the teacher farther than for occasional correction, and for those words which they may not have met in the preceding chapters. But, to accomplish this, it is absolutely necessary that every member of the class know *every word* of all the preceding lessons; which is, however, an easy task, the words being always taught him in class, and the pupil besides being able to refer to the key whenever he is at a loss—the key translated in the very words which the teacher has used in the class, from which, as was before remarked, he must never deviate.—In *ten* lessons, it will be found that the class can readily translate the whole of the Gospel of St. John, which is called the first section of the course.—Should any delay, from any cause, prevent them, it is in my classes always for account of teacher, who gives the extra lesson or lessons always *gratis*. —It cannot be too deeply impressed on the mind of the pupil, that *a perfect knowledge of every word* of his first section is most important to the ease and comfort of his future progress.—At the end of *ten* lessons, or first section, the custom of my establishments is to give the pupil the *Epitome Historiæ Sacræ*, which is provided with a key in the same manner.—It was first used in our classes for the first and second sections; we now teach it in one section of *ten* lessons, which we find easier than to teach it in two sections before the pupil has read the Testament.—When he has read the Epitome, it will be then time to give him the theory of the verbs and other words which change their terminations.—He has already acquired a good practical knowledge of these things; the theory becomes then very easy.—A grammar containing the declensions and conjugations, and printed specially for my classes, is then put into the pupil's hands, (not to be got by heart, nothing is ever got by rote on this system,) but that he may comprehend more readily his teacher who lectures on grammar generally, but especially on the verbs. From this time, that is, from the beginning of the *third* section, the pupil studies the theory and construction of the language as well as its practice. For this purpose he reads the

ancient authors, beginning with Cæsar, which, together with the *Selecta e Profanis,* fills usefully the *third* and *fourth* sections. When these with the preceding books are well known, the pupil will find little difficulty in reading the authors usually read in schools. The *fifth* and *sixth* sections consist of Virgil and Horace, enough of which is read to enable the pupil to read them with facility, and to give him correct ideas of Prosody and Versification. Five or six months, with mutual attention on the part of the pupil and teacher, will be found sufficient to acquire a knowledge of this language, which hitherto has *rarely* been the result of as many years.'

We have before said, that the Hamiltonian system must not depend upon Mr. Hamilton's method of carrying it into execution; for instance, he banishes from his schools the effects of emulation. The boys do not take each other's places. This, we think, is a sad absurdity. A cook might as well resolve to make bread without fermentation, as a pedagogue to carry on a school without emulation. It must be a sad doughy lump without this vivifying principle. Why are boys to be shut out from a class of feelings to which society owes so much, and upon which their conduct in future life must (if they are worth any thing) be so closely constructed? Poet A writes verses to outshine poet B. Philosopher C sets up roasting Titanium, and boiling Chromium, that he may be thought more of than philosopher D. Mr. Jackson strives to out-paint Sir Thomas; Sir Thomas Lethbridge to overspeak Mr. Canning; and so society gains good chemists, poets, painters, speakers, and orators; and why are not boys to be emulous as well as men?

If a boy were in Paris, would he learn the language better by shutting himself up to read French books with a dictionary, or by conversing freely with all whom he met? and what is conversation but an Hamiltonian school? Every man you meet is a living lexicon and grammar—who is perpetually changing your English into French, and perpetually instructing you, in spite of yourself, in the terminations of French substantives and verbs. The analogy is still closer, if you converse with persons of whom you can ask questions, and who will be at the trouble of correcting you. What madness would it be to run away from these pleasing facilities, as too dangerously easy—to stop your ears, to double-lock the door, and to look out *chickens; taking a walk;* and *fine weather;* in Boyer's Dictionary—and then, by the help of Chambaud's Grammar, to construct a sentence which should signify,

'*Come to my house, and eat some chickens, if it is fine?*' But there is in England almost a love of difficulty and needless labour. We are so resolute and industrious in raising up impediments which ought to be overcome, that there is a sort of suspicion against the removal of these impediments, and a notion that the advantage is not fairly come by without the previous toil. If the English were in a paradise of spontaneous productions, they would continue to dig and plough, though they were never a peach nor a pine-apple the better for it.

A principal point to attend to in the Hamiltonian system, is the prodigious number of words and phrases which pass through the boy's mind, compared with those which are presented to him by the old plan. As a talkative boy learns French sooner in France than a silent boy, so a translator of books learns sooner to construe, the more he translates. An Hamiltonian makes, in six or seven lessons, three or four hundred times as many exchanges of English for French or Latin, as a grammar schoolboy can do; and if he loses 50 per cent. of all he hears, his progress is still, beyond all possibility of comparison, more rapid.

As for pronunciation of living languages, we see no reason why that consideration should be introduced in this place. We are decidedly of opinion, that all living languages are best learnt in the country where they are spoken, or by living with those who come from that country; but if that cannot be, Mr. Hamilton's method is better than the grammar and dictionary method. *Cæteris paribus*, Mr. Hamilton's method, as far as French is concerned, would be better in the hands of a Frenchman, and his Italian method in the hands of an Italian; but all this has nothing to do with the system.

'Have I read through Lilly?—have I learnt by heart that most atrocious monument of absurdity, the Westminster Grammar?—have I been whipt for the substantives?—whipt for the verbs?—and whipt for and with the interjections?—have I picked the sense slowly, and word by word, out of Hederick?—and shall my son Daniel be exempt from all this misery?—Shall a little unknown person in Cecil Street, Strand, No. 25, pretend to tell me that all this is unnecessary?—Was it possible that I might have been spared all this?—The whole system is nonsense, and the man an impostor. If there had been any truth in it, it must have occurred to some

one else before this period.'—This is a very common style of observation upon Mr. Hamilton's system, and by no means an uncommon wish of the mouldering and decaying part of mankind, that the next generation should not enjoy any advantages from which they themselves have been precluded.—'*Ay, ay, it's all mighty well—but I went through this myself, and I am determined my children shall do the same.*' We are convinced that a great deal of opposition to improvement proceeds from this principle. Crabbe might make a good picture of an unbenevolent old man, slowly retiring from this sublunary scene, and lamenting that the coming race of men would be less bumped on the roads, better lighted in the streets, and less tormented with grammars and lexicons, than in the preceding age. A great deal of compliment to the wisdom of ancestors, and a great degree of alarm at the dreadful spirit of innovation, are soluble into mere jealousy and envy.

But what is to become of a boy who has no difficulties to grapple with? How enervated will that understanding be, to which every thing is made so clear, plain, and easy;—no hills to walk up, no chasms to step over; every thing graduated, soft, and smooth. All this, however, is an objection to the multiplication table, to Napier's bones, and to every invention for the abridgment of human labour. There is no dread of any lack of difficulties. Abridge intellectual labour by any process you please—multiply mechanical powers to any extent—there will be sufficient, and infinitely more than sufficient, of laborious occupation for the mind and body of man. Why is the boy to be idle?—By and by comes the book without a key; by and by comes the lexicon. They do come at last—though at a better period. But if they did not come—if they were useless, if language could be attained without them—would any human being wish to retain difficulties for their own sake, which led to nothing useful, and by the annihilation of which our faculties were left to be exercised, by difficulties which *do* lead to something useful—by mathematics, natural philosophy, and every branch of useful knowledge? Can any one be so anserous as to suppose, that the faculties of young men cannot be exercised, and their industry and activity called into proper action, because Mr. Hamilton teaches, in three or four years, what has (in a more vicious system) demanded seven or eight? Besides, even in the

Hamiltonian method it is very easy for one boy to outstrip another. Why may not a clever and ambitious boy employ three hours upon his key by himself, while another boy has only employed one? There is plenty of corn to thrash, and of chaff to be winnowed away, in Mr. Hamilton's system; the difference is, that every blow tells, because it is properly directed. In the old way, half their force was lost in air. There is a mighty foolish apophthegm of Dr. Bell's,* that it is not what is done for a boy that is of importance, but what a boy does for himself. This is just as wise as to say, that it is not the breeches which are made for a boy that can cover his nakedness, but the breeches he makes for himself. All this entirely depends upon a comparison of the time saved, by showing the boy how to do a thing, rather than by leaving him to do it for himself. Let the object be, for example, to make a pair of shoes. The boy will effect this object much better if you show him how to make the shoes, than if you merely give him wax, thread, and leather, and leave him to find out all the ingenious abridgments of labour which have been discovered by experience. The object is to turn Latin into English. The scholar will do it much better and sooner if the word is found for him, than if he finds it—much better and sooner if you point out the effect of the terminations, and the nature of the syntax, than if you leave him to detect them for himself. The thing *is* at last done *by the pupil himself* —for he reads the language—which was the thing to be done. All the help he has received has only enabled him to make a more economical use of his time, and to gain his end sooner. Never be afraid of wanting difficulties for your pupil; if means are rendered more easy, more will be expected. The animal will be compelled, or induced to do all that he can do. Macadam has made the roads better. Dr. Bell would have predicted, that the horses would get too fat; but the actual result is, that they are compelled to go ten miles an hour instead of eight.

'For teaching children, this, too, I think is to be observed, that, in most cases, where they stick, they are not to be farther puzzled, by putting them upon finding it out themselves; as by asking such questions as these, viz.—which is the no-

* A very foolish old gentleman, seized on eagerly by the Church of England to defraud Lancaster of his discovery.

minative case in the sentence they are to construe? or demanding what "aufero" signifies, to lead them to the knowledge what "abstulere" signifies, &c., when they cannot readily tell. This wastes time only in disturbing them; for whilst they are learning, and apply themselves with attention, they are to be kept in good humour, and every thing made easy to them, and as pleasant as possible. Therefore, wherever they are at a stand, and are willing to go forwards, help them presently over the difficulty, without any rebuke or chiding; remembering that, where harsher ways are taken, they are the effect only of pride and peevishness in the teacher, who expects children should instantly be masters of as much as he knows; whereas he should rather consider, that his business is to settle in them *habits*, not angrily to inculcate *rules*.'—*Locke on Education*, p. 74.

Suppose the first five books of Herodotus to be acquired by a key, or literal translation after the method of Hamilton, so that the pupil could construe them with the greatest accuracy;—we do not pretend, because the pupil could construe this book, that he could construe any other book equally easy; we merely say, that the pupil has acquired, by these means, a certain *copia verborum*, and a certain practical knowledge of grammar, which must materially diminish the difficulty of reading the next book; that his difficulties diminish in a compound ratio with every fresh book he reads with a key—till at last he reads any common book, without a key—and that he attains this last point of perfection in a time incomparably less, and with difficulties incomparably smaller, than in the old method.

There are a certain number of French books, which when a boy can construe accurately, he may be said, for all purposes of reading, to be master of the French language. No matter how he has attained this power of construing the books. If you try him thoroughly, and are persuaded he is perfectly master of the books—then he possesses the power in question—he understands the language. Let these books, for the sake of the question, be Telemachus, the History of Louis XIV., the Henriade, the Plays of Racine, and the Revolutions of Vertot. We would have Hamiltonian keys to all these books, and the Lancasterian method of instruction. We believe these books would be mastered in one-sixth part of the time, by these means, that they would be by the old

method of looking out the words in the dictionary, and then coming to say the lesson to the master; and we believe that the boys, long before they came to the end of this series of books, would be able to do without their keys—to fling away their cork-jackets, and to swim alone. But boys who learn a language in four or five months, it is said, are apt to forget it again. Why, then, does not a young person, who has been five or six months in Paris, forget his French four or five years afterwards? It has been obtained without any of that labour, which the objectors to the Hamiltonian system deem to be so essential to memory. It has been obtained in the midst of tea and bread and butter, and yet is in a great measure retained for a whole life. In the same manner, the pupils of this new school use a colloquial living dictionary, and, from every principle of youthful emulation, contend with each other in catching the interpretation, and in applying to the lesson before them.

'If you wish boys to remember any language, make the acquisition of it very tedious and disgusting.' This seems to be an odd rule: but if it is good for language, it must be good also for every species of knowledge—music, mathematics, navigation, architecture. In all these sciences aversion should be the parent of memory—impediment the cause of perfection. If difficulty is the cause of memory, the boy who learns with the greatest difficulty will remember with the greatest tenacity;—in other words, the acquisitions of a dunce will be greater and more important than those of a clever boy. Where is the love of difficulty to end? Why not leave a boy to compose his own dictionary and grammar? It is not what is done for a boy, but what he does for himself, that is of any importance. Are there difficulties enough in the old method of acquiring languages? Would it be better if the difficulties were doubled, and thirty years given to languages, instead of fifteen? All these arguments presume the difficulty to be got over, and then the memory to be improved. But what if the difficulty is shrunk from? What if it puts an end to power, instead of increasing it; and extinguishes, instead of exciting, application? And when these effects are produced, you not only preclude all hopes of learning, or language, but you put an end for ever to all literary habits, and to all improvements from study. The boy who is lexicon-struck in early youth looks upon all books afterwards with horror, and goes over to

the blockheads. Every boy would be pleased with books, and pleased with school, and be glad to forward the views of his parents, and obtain the praise of his master, if he found it possible to make tolerably easy progress; but he is driven to absolute despair by gerunds, and wishes himself dead! Progress is pleasure—activity is pleasure. It is impossible for a boy not to make progress, and not to be active in the Hamiltonian method; and this pleasing state of mind we contend to be more favourable to memory, than the languid jaded spirit which much commerce with lexicons never fails to produce.

Translations are objected to in schools justly enough, when they are paraphrases and not translations. It is impossible, from a paraphrase or very loose translation, to make any useful progress—they retard rather than accelerate a knowledge of the language to be acquired, and are the principal causes of the discredit into which translations have been brought, as instruments of education.

Infandum Regina jubes renovare dolorem,
Regina, jubes renovare dolorem infandum.

Oh! Queen, thou orderest to renew grief not to be spoken of.

Oh! Queen, in pursuance of your commands, I enter upon the narrative of misfortunes almost too great for utterance.

The first of these translations leads us directly to the explication of a foreign language, as the latter insures a perfect ignorance of it.

It is difficult enough to introduce any useful novelty in education without enhancing its perils by needless and untenable paradox. Mr. Hamilton has made an assertion in his Preface to the Key of the Italian Gospel, which has no kind of foundation in fact, and which has afforded a conspicuous mark for the aim of his antagonists.

'I have said that each word is translated by its *one sole* undeviating meaning, assuming as an incontrovertible principle in all languages that, with very few exceptions, each word has one meaning only, and can usually be rendered correctly into another by one word only, which one word should serve for its representative at all times and on all occasions.'

Now, it is probable that each word had one meaning only in its origin; but metaphor and association are so busy with human speech, that the same word comes to serve in a vast

variety of senses, and continues to do so long after the metaphors and associations which called it into this state of activity are buried in oblivion. Why may not *jubeo* be translated order as well as command, or *dolorem* rendered *grief* as well as *sorrow?* Mr. Hamilton has expressed himself loosely; but he perhaps means no more than to say, that in school translations, the metaphysical meaning should never be adopted, when the word can be rendered by its primary signification. We shall allow him, however, to detail his own method of making the translation in question.

'Translations on the Hamiltonian system, according to which this book is translated, must not be confounded with translations made according to Locke, Clarke, Sterling, or even according to Dumarsais, Fremont, and a number of other Frenchmen, who have made what have been and are yet sometimes called *literal*, and interlineal translations. The latter are, indeed, *interlineal*, but no *literal* translation had ever appeared in any language before those called Hamiltonian, that is, before my Gospel of St. John from the French, the Greek, and Latin Gospels, published in London, and L'Hommond's Epitome of the Historia Sacra. These and these only were and are truly literal; that is to say, that every word is rendered in English by a corresponding part of speech, that the grammatical analysis of the phrase is never departed from; that the case of every noun, pronoun, adjective, or particle, and the mood, tense, and person of every verb, are accurately pointed out by appropriate and unchanging signs, so that a grammarian not understanding one word of Italian, would, on reading any part of the translation here given, be instantly able to parse it. In the translations above alluded to, an attempt is made to preserve the correctness of the language into which the different works are translated, but the wish to conciliate this correctness with a literal translation, has only produced a barbarous and uncouth idiom, while it has in every case deceived the unlearned pupil by a translation altogether false and incorrect. Such translations may, indeed, give an idea of what is contained in the book translated, but they will not assist, or at least very little, in enabling the pupil to make out the exact meaning of each word, which is the principal object of Hamiltonian translations. The reader will understand this better by an illustration: A gentleman has lately given a translation of Juvenal according to the plan of the above-mentioned authors, beginning with the words *semper ego*, which he joins and translates, "shall I always be"—if his intention were to teach Latin words, he might as well have said, "shall I always eat beef-steaks?"—True, there is nothing about beef-steaks in *semper ego*, but neither is there about "shall be:" the whole translation is on the same plan, that is to say, that there is not one line of it correct, I had almost said one word, on which the pupil can rely, as the exact equivalent in English of the Latin word above it.—Not so the translation here given.

'As the object of the author has been that the pupil should know

every word as well as he knows it himself, he has uniformly given it the one sole, precise meaning which it has in our language, sacrificing everywhere the beauty, the idiom, and the correctness of the English language to the original, in order to show the perfect idiom, phraseology, and picture of that original as in a glass. So far is this carried, that where the English language can express the precise meaning of the Italian phrase only by a barbarism, this barbarism is employed without scruple—as thus; "e le tenebre non l'hanno ammessa."—Here the word *tenebre* being plural, if you translate it darkness, you not only give a false translation of the word itself, which is used by the Italians in the plural number, but what is much more important, you lead the pupil into an error about its government, it being the nominative case to *hanno*, which is the third person plural; it is therefore translated not darkness, but darknesses.'

To make these keys perfect, we rather think there should be a free translation added to the literal one. Not a paraphrase, but only so free as to avoid any awkward or barbarous expression. The comparison between the free and the literal translation would immediately show to young people the peculiarities of the language in which they were engaged.

Literal translation or key—*Oh! Queen, thou orderest me to renew grief not to be spoken of.*

Free—'Oh! Queen, thou orderest me to renew my grief, too great for utterance.'

The want of this accompanying free translation is not felt in keys of the Scriptures, because, in fact, the English Bible is a free translation, great part of which the scholar remembers. But in a work entirely unknown, of which a key was given, as full of awkward and barbarous expressions as a key certainly ought to be, a scholar might be sometimes puzzled to arrive at the real sense. We say as full of awkward and barbarous expressions as it ought to be, because we thoroughly approve of Mr. Hamilton's plan, of always sacrificing English and elegance to sense, when they cannot be united in the key. We are rather sorry Mr. Hamilton's first essay has been in a translation of the Scriptures, because every child is so familiar with them, that it may be difficult to determine whether the apparent progress is ancient recollection or recent attainment; and because the Scriptures are so full of Hebraisms and Syriacisms, and the language so different from that of Greek authors, that it does not secure a knowledge of the language equivalent to the time employed upon it.

The keys hitherto published by Mr. Hamilton are the Greek, Latin, French, Italian, and German keys to the Gospel of St.

John, Perrin's Fables, Latin Historia Sacra, Latin, French, and Italian Grammar, and Studia Metrica. One of the difficulties under which the system is labouring, is a want of more keys. Some of the best Greek and Roman classics should be immediately published, with keys, and by very good scholars. We shall now lay before our readers an extract from one of the public papers respecting the progress made in the Hamiltonian schools.

'*Extract from the Morning Chronicle of Wednesday, November* 16*th*, 1825.—*Hamiltonian System.*—We yesterday were present at an examination of eight lads who have been under Mr. Hamilton since some time in the month of May last, with a view to ascertain the efficacy of his system in communicating a knowledge of languages. These eight lads, all of them between the ages of twelve and fourteen, are the children of poor people, who, when they were first placed under Mr. Hamilton, possessed no other instruction than common reading and writing. They were obtained from a common country school, through the interposition of a member of Parliament, who takes an active part in promoting charity schools throughout the country; and the choice was determined by the consent of the parents, and not by the cleverness of the boys.

'They have been employed in learning Latin, French, and latterly Italian; and yesterday they were examined by several distinguished individuals, among whom we recognized John Smith, Esq. M. P.; G. Smith, Esq. M. P.; Mr. J. Mill, the historian of British India; Major Camac; Major Thompson; Mr. Cowell, &c. &c. They first read different portions of the Gospel of St. John in Latin, and of Cæsar's Commentaries, selected by the visitors. The translation was executed with an ease which it would be in vain to expect in any of the boys who attend our common schools, even in their third or fourth year; and proved, that the principle of exciting the attention of boys to the utmost, during the process by which the meaning of the words is fixed in their memory, had given them a great familiarity with so much of the language as is contained in the books above alluded to. Their knowledge of the parts of speech was respectable, but not so remarkable; as the Hamiltonian system follows the natural mode of acquiring language, and only employs the boys in analyzing, when they have already attained a certain familiarity with any language.

'The same experiments were repeated in French and Italian with the same success, and, upon the whole, we cannot but think the success has been complete. It is impossible to conceive a more impartial mode of putting any system to the test, than to make such an experiment on the children of our peasantry.'

Into the truth of this statement we have personally inquired, and it seems to us to have fallen short of the facts, from the laudable fear of overstating them. The lads selected for the experiment were parish boys of the most ordinary description,

reading English worse than Cumberland curates, and totally ignorant of the rudiments of any other language. They were purposely selected for the experiment by a gentleman who defrayed its expense, and who had the strongest desire to put strictly to the test the efficacy of the Hamiltonian system. The experiment was begun the middle of May, 1825, and concluded on the day of November in the same year mentioned in the extract, exactly six months after. The Latin books set before them were the Gospel of St. John, and parts of Cæsar's Commentaries. Some Italian book or books (what we know not), and a selection of French histories. The visitors put the boys on where they pleased, and the translation was (as the reporter says) executed with an ease which it would be vain to expect in any of the boys who attend our common schools, even in their third or fourth year.*

From experiments and observations which have fallen under our own notice, we do not scruple to make the following assertions. If there were keys to the four Gospels, as there is to that of St. John, any boy or girl of thirteen years of age, and of moderate capacity, studying four hours a day, and beginning with an utter ignorance even of the Greek character, would learn to construe the four Gospels with the most perfect and scrupulous accuracy, in six weeks. Some children, utterly ignorant of French or Italian, would learn to construe the four Gospels, in either of these languages, in three weeks; the Latin in four weeks; the German in five weeks. We believe they would do it in a class; but not to run any risks, we will presume a master to attend upon one student alone for these periods. We assign a master principally, because the application of a solitary boy at that age could not be depended upon; but if the sedulity of the child were certain, he would do it nearly as well alone. A greater time is allowed for German and Greek, on account of the novelty of the character. A person of mature habits, eager and energetic in his pursuits, and reading seven or eight hours per day, might, though utterly ignorant of a letter of Greek, learn to construe the four Gospels, with the most punctilious accuracy in three weeks,

* We have left with the bookseller the names of two gentlemen who have verified this account to us, and who were present at the experiment. Their names will at once put an end to all scepticism as to the fact. Two more candid and enlightened judges could not be found.

by the key alone. These assertions we make, not of the Gospels alone, but of any tolerably easy book of the same extent. We mean to be very accurate; but suppose we are wrong—add 10, 20, 30 per cent. to the time, an average boy of thirteen, in an average school, cannot construe the four Gospels in two years from the time of his beginning the language.

All persons would be glad to read a foreign language, but all persons do not want the same scrupulous and comprehensive knowledge of grammar which a great Latin scholar possesses. Many persons may, and do derive great pleasure and instruction from French, German, and Italian books, who can neither speak nor write these languages—who know that certain terminations when they see them, signify present or past time, but who, if they wished to signify present or past time, could not recall these terminations. For many purposes and objects, therefore, very little grammar is wanting.

The Hamiltonian method begins with what all persons want, a facility of construing, and leaves every scholar to become afterwards as profound in grammar as he (or those who educate him) may choose; whereas the old method aims at making all more profound grammarians than three-fourths wish to be, or than nineteen-twentieths *can* be. One of the enormous follies of the enormously foolish education in England, is, that all young men—dukes, fox-hunters, and merchants—are educated as if they were to keep a school, and serve a curacy; while scarcely an hour in the Hamiltonian education is lost for any variety of life. A grocer may learn enough of Latin to taste the sweets of Virgil; a cavalry officer may read and understand Homer, without knowing that ἵημι comes from εω with a smooth breathing, and that it is formed by an improper reduplication. In the mean time, there is nothing in that education which prevents a scholar from knowing (if he wishes to know) what Greek compounds draw back their accents. He may trace verbs in ίμι from polysyllables in ίω, or derive endless glory from marking down derivatives in πτω, changing the ε of their primitives into iota.

Thus in the Hamiltonian method, a good deal of grammar necessarily impressss itself upon the mind (*chemin faisant*), as it does in the vernacular tongue, without any rule at all, and merely by habit. How is it possible to read many Latin keys, for instance, without remarking, willingly or unwillingly, that the first persons of verbs end in *o*, the second in *s*, the

third in *t?*—that the same adjective ends in *us* or *a*, accordingly as the connected substantive is masculine or feminine, and other such gross and common rules? An Englishman who means to say, *I will go to London*, does not say, *I could go to London.* He never read a word of grammar in his life; but he has learnt, by habit, that the word *go*, signifies to proceed or set forth, and by the same habit he learns that future intentions are expressed by *I will;* and by the same habit the Hamiltonian pupil, reading over, and comprehending twenty times more words and phrases than the pupil of the ancient system, insensibly but infallibly fixes upon his mind many rules of grammar. We are far from meaning to say, that the grammar thus acquired will be sufficiently accurate for a first-rate Latin and Greek scholar; but there is no reason why a young person arriving at this distinction, and educated in the Hamiltonian system, may not carry the study of grammar to any degree of minuteness and accuracy. The only difference is, that he begins grammar as a study, after he has made a considerable progress in the language, and not before—a very important feature in the Hamiltonian system, and a very great improvement in the education of children.

The imperfections of the old system proceed in a great measure from a bad and improvident accumulation of difficulties, which must all, perhaps, though in a less degree, at one time or another be encountered, but which may be, and in the Hamiltonian system are, much more wisely distributed. A boy who sits down to Greek with lexicon and grammar, has to master an unknown character of an unknown language—to look out words in a lexicon, in the use of which he is inexpert—to guess, by many trials, in which of the numerous senses detailed in the lexicon he is to use the word—to attend to the inflexions of cases and tense—to become acquainted with the syntax of the language—and to become acquainted with these inflexions and this syntax from books written in foreign languages, and full of the most absurd and barbarous terms, and this at the tenderest age, when the mind is utterly unfit to grapple with any great difficulty; and the boy, who revolts at all this folly and absurdity, is set down for a dunce, and must go into a marching regiment, or on board a man of war! The Hamiltonian pupil has his word looked out for him, its proper sense ascertained, the case of the substantive, the inflexions of the verb pointed out, and the syntaxical ar-

rangement placed before his eyes. Where, then, is he to encounter these difficulties? Does he hope to escape them entirely? Certainly not, if it is his purpose to become a great scholar; but he will enter upon them when the character is familiar to his eye—when a great number of Greek words are familiar to his eye and ear—when he has practically mastered a great deal of grammar—when the terminations of verbs convey to him different modifications of time, the terminations of substantives different varieties of circumstance—when the rules of grammar, in short, are a confirmation of previous observation, not an irksome multitude of directions, heaped up without any opportunity of immediate application.

The real way of learning a dead language, is to imitate, as much as possible, the method in which a living language is naturally learnt. When do we ever find a well educated Englishman or Frenchman embarrassed by an ignorance of the grammar of their respective languages? They first learn it practically and unerringly; and then, if they choose to look back and smile at the idea of having proceeded by a number of rules without knowing one of them by heart, or being conscious that they had any rule at all, this is a philosophical amusement: but whoever thinks of learning the grammar of their own tongue before they are very good grammarians? Let us hear what Mr. Locke says upon this subject:—'If grammar ought to be taught at any time, it must be to one that can speak the language already; how else can he be taught the grammar of it? This at least is evident, from the practice of the wise and learned nations amongst the ancients. They made it a part of education to cultivate their own, not foreign languages. The Greeks counted all other nations barbarous, and had a contempt for their languages. And though the Greek learning grew in credit amongst the Romans towards the end of their commonwealth, yet it was the Roman tongue that was made the study of their youth: their own language they were to make use of, and therefore it was their own language they were instructed and exercised in.

'But, more particularly, to determine the proper season for grammar, I do not see how it can reasonably be made any one's study, but as an introduction to rhetoric. When it is thought time to put any one upon the care of polishing his tongue, and of speaking better than the illiterate, then is the

time for him to be instructed in the rules of grammar, and not before. For grammar being to teach men not to speak, but to speak correctly, and according to the exact rules of the tongue, which is one part of elegancy, there is little use of the one to him that has no need of the other. Where rhetoric is not necessary, grammar may be spared. I know not why any one should waste his time, and beat his head about the Latin grammar, who does not intend to be a critic, or make speeches, and write despatches in it. When any one finds in himself a necessity or disposition to study any foreign language to the bottom, and to be nicely exact in the knowledge of it, it will be time enough to take a grammatical survey of it. If his use of it be only to understand some books writ in it, without a critical knowledge of the tongue itself, reading alone, as I have said, will attain that end, without charging the mind with the multiplied rules and intricacies of grammar.'—*Locke on Education*, p. 78, folio.

In the Eton Grammar, the following very plain and elementary information is conveyed to young gentlemen utterly ignorant of every syllable of the language:—

'Nomina anomala quæ contrahuntur sunt, 'ολοπαθῆ, quæ contrahuntur in omnibus, ut γους γοῦς, &c. ολιγοπαθῆ, quæ in paucioribus casibus contrahuntur, ut substantiva Barytonia in ὑρ. Imparyllatria in ουρ,' &c. &c.

From the Westminster Grammar we make the following extract—and some thousand rules, conveyed in poetry of equal merit, must be fixed upon the mind of the youthful Grecian, before he advances into the interior of the language.

'ω finis thematis finis utriusque futuri est
Post liquidam in primo, vel in unoquoque secundo,
ω circumflexum est. Ante ω finale character
Explicitus σε primi est implicitusque futuri
ω itaque in quo σ quasi plexum est solitu in σω.'
Westminster Greek Grammar, 1814.

Such are the easy initiations of our present methods of teaching. The Hamiltonian system, on the other hand, 1. teaches an unknown tongue by the closest interlinear translation, instead of leaving a boy to explore his way by the lexicon or dictionary. 2. It postpones the study of grammar till a considerable progress has been made in the language, and a great degree of practical grammar has been acquired. 3. It substitutes the cheerfulness and competition of the Lan-

casterian system for the dull solitude of the dictionary. By these means, a boy finds he is making a progress, and learning something from the very beginning. He is not overwhelmed with the first appearance of insuperable difficulties; he receives some little pay from the first moment of his apprenticeship, and is not compelled to wait for remuneration till he is out of his time. The student having acquired the great art of understanding the sense of what is written in another tongue, may go into the study of the language as deeply and as extensively as he pleases. The old system aims at beginning with a depth and accuracy which many men never will want, which disgusts many from arriving even at moderate attainments, and is a less easy, and not more certain road to a profound skill in languages, than if attention to grammar had been deferred to a later period.

In fine, we are strongly persuaded, that the time being given, this system will make better scholars; and the degree of scholarship being given, a much shorter time will be needed. If there is any truth in this, it will make Mr. Hamilton one of the most useful men of his age; for if there is any thing which fills reflecting men with melancholy and regret, it is the waste of mortal time, parental money, and puerile happiness, in the present method of pursuing Latin and Greek.

COUNSEL FOR PRISONERS. (Edinburgh Review, 1826.)

Stockton on the Practice of not allowing Counsel for Prisoners accused of Felony. 8vo. London, 1826.

On the sixth of April, 1824, Mr. George Lamb, (a gentleman who is always the advocate of whatever is honest and liberal), presented the following petition from several jurymen in the habit of serving on juries at the Old Bailey:—

'That your petitioners, fully sensible of the invaluable privilege of jury trials, and desirous of seeing them as complete as human institutions will admit, feel it their duty to draw the attention of the House to the restrictions imposed on the prisoner's counsel, which, they humbly conceive, have strong claims to a legislative remedy. With every disposition to decide justly, the petitioners have found, by experience, in the course of their attendances as jurymen in the Old Bailey, that the opening statements for the prosecution too frequently leave an impression more unfavourable to the prisoner at the bar, than the evidence of itself could have produced; and it has always sounded harsh to the petitioners to hear it announced from the bench, that the counsel, to whom the prisoner has committed his defence, cannot be permitted to address the jury in his behalf, nor reply to the charges which have, or have not, been substantiated by the witnesses. The petitioners have felt their situation peculiarly painful and embarrassing when the prisoner's faculties, perhaps surprised by such an intimation, are too much absorbed in the difficulties of his unhappy circumstances to admit of an effort towards his own justification, against the statements of the prosecutor's counsel, often unintentionally aggravated through zeal or misconception; and it is purely with a view to the attainment of impartial justice, that the petitioners humbly submit to the serious consideration of the House the expediency of allowing every accused person the full benefit of counsel, as in cases of misdemeanour, and according to the practice of the civil courts.'

With the opinions so sensibly and properly expressed by these jurymen, we most cordially agree. We have before touched incidentally on this subject; but shall now give to it a more direct and a fuller examination. We look upon it as a very great blot in our over-praised criminal code; and no effort of ours shall be wanting, from time to time, for its removal.

We have now the benefit of discussing these subjects under

the government of a home secretary of state, whom we may (we believe) fairly call a wise, honest, and high principled man—as he appears to us, without wishing for innovation, or having any itch for it, not to be afraid of innovation,* when it is gradual and well considered. He is, indeed, almost the only person we remember in his station, who has not considered sound sense to consist in the rejection of every improvement, and loyalty to be proved by the defence of every accidental, imperfect, or superannuated institution.

If this petition of jurymen be a real *bonâ fide* petition, not the result of solicitation—and we have no reason to doubt it—it is a warning which the legislature cannot neglect, if it mean to avoid the disgrace of seeing the lower and middle orders of mankind making laws for themselves, which the government is at length compelled to adopt as measures of their own. The judges and the Parliament would have gone on to this day, hanging, by wholesale, for the forgeries of bank notes, if juries had not become weary of the continual butchery, and resolved to acquit. The proper execution of laws must always depend, in great measure, upon public opinion; and it is undoubtedly most discreditable to any men intrusted with power, when the governed turn round upon their governors, and say, 'Your laws are so cruel, or so foolish, we cannot, and *will not* act upon them.'

The particular improvement, of allowing counsel to those who are accused of felony, is so far from being unnecessary, from any extraordinary indulgence shown to English prisoners, that we really cannot help suspecting, that not a year elapses in which many innocent persons are not found guilty. How is it possible, indeed, that it can be otherwise? There are seventy or eighty persons to be tried for various offences at the assizes, who have lain in prison for some months; and fifty of whom, perhaps, are of the lowest order of the people, without friends in any better condition than themselves, and without one single penny to employ in their defence. How

* We must always except the Catholic question. Mr. Peel's opinions on this subject (giving him credit for sincerity), have always been a subject of real surprise to us. It must surely be some mistake between the right honourable gentleman and his chaplain! They have been travelling together; and some of the parson's notions have been put up in Mr. Peel's head by mistake. We yet hope he will return them to their rightful owner.

are they to obtain witnesses? No attorney can be employed —no subpœna can be taken out; the witnesses are fifty miles off, perhaps—totally uninstructed—living from hand to mouth —utterly unable to give up their daily occupation to pay for their journey, or for their support when arrived at the town of trial—and, if they could get there, not knowing where to go, or what to do. It is impossible but that a human being, in such a helpless situation, must be found guilty; for, as he cannot give evidence for himself, and has not a penny to fetch those who can give it for him, any story told against him must be taken for true (however false); since it is impossible for the poor wretch to contradict it. A brother or a sister may come —and support every suffering and privation themselves in coming; but the prisoner cannot often have such claims upon the persons who have witnessed the transaction, nor any other claims but those which an unjustly accused person has upon those whose testimony can exculpate him—and who probably must starve themselves and their families to do it. It is true, a case of life and death will rouse the poorest persons, every now and then, to extraordinary exertions, and they may tramp through mud and dirt to the assize town to save a life—though even this effort is precarious enough: but imprisonment, hard labour, or transportation, appeal less forcibly than death,—and would often appeal for evidence in vain, to the feeble and limited resources of extreme poverty. It is not that a great proportion of those accused are not guilty—but that some are not—and are utterly without means of establishing their innocence. We do not believe they are often accused from wilful and corrupt perjury: but the prosecutor is himself mistaken. The crime has been committed; and in his thirst for vengeance, he has got hold of the wrong man. The wheat was stolen out of the barn; and, amidst many other collateral circumstances, the witnesses (paid and brought up by a wealthy prosecutor, who is repaid by the county), swear that they saw a man, very like the prisoner, with a sack of corn upon his shoulder, at an early hour of the morning, going from the barn in the direction of the prisoner's cottage! Here is one link, and a very material link, of a long chain of circumstantial evidence. Judge and jury must give it weight, till it is contradicted. In fact, the prisoner did not steal the corn; he was, to be sure, out of his cottage at the same hour—and that also is proved—but travelling in a totally different direction,—and

was seen to be so travelling by a stage coachman passing by, and by a market gardener. An attorney with money in his pocket, whom every moment of such employ made richer by six-and-eight pence, would have had the two witnesses ready, and at rack and manger, from the first day of the assize; and the innocence of the prisoner would have been established: but by what possible means is the destitute ignorant wretch himself to find or to produce such witnesses? or how can the most humane jury, and the most acute judge, refuse to consider him as guilty, till his witnesses *are* produced? We have not the slightest disposition to exaggerate, and, on the contrary, should be extremely pleased to be convinced that our apprehensions were unfounded: but we have often felt extreme pain at the hopeless and unprotected state of prisoners; and we cannot find any answer to our suspicions, or discover any means by which this perversion of justice, under the present state of the law, can be prevented from taking place. Against the prisoner are arrayed all the resources of an angry prosecutor, who has certainly (let who will be the culprit) suffered a serious injury. He has his hand, too, in the public purse; for he prosecutes at the expense of the county. He cannot even relent; for the magistrate is bound over to indict. His witnesses cannot fail him; for they are all bound over by the same magistrate to give evidence. He is out of prison, too, and can exert himself.

The prisoner, on the other hand, comes into court, squalid and depressed from long confinement—utterly unable to tell his own story from want of words and want of confidence, and is unable to produce evidence for want of money. His fate accordingly is obvious;—and that there are many innocent men punished every year, for crimes they have not committed, appears to us to be extremely probable. It is, indeed, scarcely possible it should be otherwise: and, as if to prove the fact, every now and then, a case of this kind *is* detected. Some circumstances come to light between sentence and execution; immense exertions are made by humane men; time is gained, and the innocence of the condemned person completely established. In Elizabeth Caning's case, two women were capitally convicted, ordered for execution—and at last found innocent, and respited. Such, too, was the case of the men who were sentenced ten years ago, for the robbery of Lord Cowper's steward. 'I have myself (says Mr. Scarlett) *often* seen

persons I thought innocent convicted, and the guilty escape, for want of some acute and intelligent counsel to show the bearings of the different circumstances on the conduct and situation of the prisoner.'—(*House of Commons Debates, April 25th*, 1826.) We were delighted to see, in this last debate, both Mr. Brougham and Mr. Scarlett profess themselves friendly to Mr. Lamb's motion.

But in how many cases has the injustice proceeded without any suspicion being excited? and even if we could reckon upon men being watchful in capital cases, where life is concerned, we are afraid it is in such cases alone that they ever besiege the secretary of state, and compel his attention. We never remember any such interference to save a man unjustly condemned to the hulks or the treadmill; and yet there are certainly more condemnations to these minor punishments than to the gallows: but then it is all one—who knows or cares about it? If Harrison or Johnson has been condemned, after regular trial by jury, to six months' treadmill, because Harrison and Johnson were without a penny to procure evidence—who knows or cares about Harrison or Johnson? how can they make themselves heard? or in what way can they obtain redress? It worries rich and comfortable people to hear the humanity of our penal laws called in question. There is talk of a society for employing discharged prisoners: might not something be effected by a society instituted for the purpose of providing to poor prisoners a proper defence, and a due attendance of witnesses? But we must hasten on from this disgraceful neglect of poor prisoners, to the particular subject of complaint we have proposed to ourselves.

The proposition is, *That the prisoner accused of felony ought to have the same power of selecting counsel to speak for him as he has in cases of treason and misdemeanour, and as defendants have in all civil actions.*

Nothing can be done in any discussion upon any point of law in England, without quoting Mr. Justice Blackstone. Mr. Justice Blackstone, we believe, generally wrote his Commentaries late in the evening, with a bottle of wine before him; and little did he think, as each sentence fell from the glass and pen, of the immense influence it might hereafter exercise upon the laws and usages of his country. 'It is' (says this favourite writer) 'not at all of a piece with the rest of the humane treatment of prisoners by the English law; for upon what face of

reason can that assistance be denied to save the life of a man, which yet is allowed him in prosecutions for every petty trespass?' Nor, indeed, strictly speaking, is it a part of our ancient law; for the Mirror, having observed the necessity of counsel in civil suits, who know how to forward and defend the cause by the rules of law and customs of the realm, immediately subjoins, 'and more necessary are they for defence upon indictment and appeals of felony, than upon any other venial crimes.' To the authority of Blackstone may be added that of Sir John Hall, in Hollis's case; of Sir Robert Atkyns, in Lord Russell's case; and of Sir Bartholomew Shower, in the arguments for a New Bill of Rights, in 1682. 'In the name of God,' says this judge, 'what harm can accrue to the public in general, or to any man in particular, that, in cases of State-treason, counsel should not be allowed to the accused? What rule of justice is there to warrant its denial, when, in a civil case of a halfpenny cake, he may plead either by himself or by his advocate? That the court is counsel for the prisoner can be no effectual reason; for so they are for each party, that right may be done.'—(*Somer's Tracts*, vol. ii. p. 568.) In the trial of Thomas Rosewell, a dissenting clergyman, for high treason in 1684, *Judge Jeffries*, in summing up, confessed to the jury, 'that he thought it a hard case, that a man should have counsel to defend himself for a twopenny trespass, and his witnesses be examined upon oath; but if he stole, committed murder or felony, nay, high treason, where life, estate, honour, and all were concerned, that he should neither have counsel, nor have his witnesses examined upon oath.'—*Howell's State Trials*, vol. x. p. 207.

There have been two capital errors in the criminal codes of feudal Europe, from which a great variety of mistake and injustice have proceeded; the one, a disposition to confound accusation with guilt; the other, to mistake a defence of prisoners accused by the crown, for disloyalty and disaffection to the crown; and from these errors our own code has been slowly and gradually recovering, by all those struggles and exertions which it always costs to remove *folly sanctioned by antiquity*. In the early periods of our history, the accused person could call no evidence:—then, for a long time, his evidence against the king could not be examined upon oath; consequently, he might as well have produced none, as all the evidence against him was upon oath. Till the reign of Anne,

no one accused of felony could produce witnesses upon oath; and the old practice was vindicated, in opposition to the new one, introduced under the statute of that day, on the grounds of humanity and tenderness to the prisoner! because, as his witnesses were not restricted by an oath, they were at liberty to indulge in simple falsehood as much as they pleased;—so argued the blessed defenders of nonsense in those days. Then it was ruled to be indecent and improper that counsel should be employed against the crown; and, therefore, the prisoner accused of treason could have no counsel. In like manner, a party accused of felony could have no counsel to assist him in the trial. Counsel might indeed stay in the court, but apart from the prisoner, with whom they could have no communication. They were not allowed to put any question, or to suggest any doubtful point of law; but if the prisoner (likely to be a weak unlettered man) could himself suggest any doubt in matter of law, the court determined first if the question of law should be entertained, and then assigned counsel to argue it. In those times, too, the jury were punishable if they gave a false verdict against the king, but were *not* punishable if they gave a false verdict against the prisoner. The preamble of the Act of 1696 runs thus—'Whereas it is expedient that persons charged with high treason should make a full and sufficient defence.' Might it not be altered to *persons charged with any species or degree of crime?* All these errors have given way to the force of truth, and to the power of common sense and common humanity—the Attorney and Solicitor General, for the time being, always protesting against each alteration, and regularly and officially prophesying the utter destruction of the whole jurisprudence of Great Britain. There is no man now alive, perhaps, so utterly foolish, as to propose that prisoners should be prevented from producing evidence upon oath, and being heard by their counsel in cases of high treason; and yet it cost a struggle for *seven* sessions to get this measure through the two houses of Parliament. But mankind are much like the children they beget—they always make wry faces at what is to do them good; and it is necessary sometimes to hold the nose, and force the medicine down the throat. They enjoy the health and vigour consequent upon the medicine; but cuff the doctor, and sputter at his stuff!

A most absurd argument was advanced in the honourable house, that the practice of employing counsel would be such

an expense to the prisoner!—just as if any thing was so expensive as being hanged! What a fine topic for the ordinary! 'You are going' (says that exquisite divine) 'to be hanged to-morrow, it is true, but consider what a sum you have saved! Mr. Scarlett or Mr. Brougham might certainly have presented arguments to the jury, which would have insured your acquittal; but do you forget that gentlemen of their eminence must be recompensed by large fees, and that, if your life had been saved, you would actually have been out of pocket above 20*l.*? You will now die with the consciousness of having obeyed the dictates of a wise economy; and with a grateful reverence for the laws of your country, which prevents you from running into such unbounded expense—so let us now go to prayers.'

It is ludicrous enough to recollect, when the employment of counsel is objected to on account of the expense to the prisoner, that the same merciful law, which, to save the prisoner's money has *denied* him counsel, and produced his conviction, seizes upon all his savings the moment he is convicted.

Of all false and foolish *dicta*, the most trite and the most absurd is that which asserts that the judge is counsel for the prisoner. We do not hesitate to say that this is merely an unmeaning phrase, invented to defend a pernicious abuse. The judge *cannot* be counsel for the prisoner, *ought not* to be counsel for the prisoner, never *is* counsel for the prisoner. To force an ignorant man into a court of justice, and to tell him that the judge is his counsel, appears to us quite as foolish as to set a hungry man down to his meals, and to tell him that the table was his dinner. In the first place, a counsel should always have private and previous communication with the prisoner, which the judge, of course, cannot have. The prisoner reveals to his counsel how far he is guilty, or he is not; states to him all the circumstances of his case—and might often enable his advocate, if his advocate were allowed to speak, to explain a long string of circumstantial evidence, in a manner favourable to the innocence of his client. Of all these advantages, the judge, if he had every disposition to befriend the prisoner, is of course deprived. Something occurs to a prisoner in the course of the cause; he suggests it in a whisper to his counsel, doubtful if it is a wise point to urge or not. His counsel thinks it of importance, and would urge it, if his mouth were not shut. Can a prisoner have this secret communication

with a judge, and take his advice, whether or not he, the judge, shall mention it to the jury? The counsel has (after all the evidence has been given) a bad opinion of his client's case; but he suppresses that opinion; and it is his duty to do so. He is not to decide; that is the province of the jury: and, in spite of his own opinion,—his client may be innocent. He is brought there (or would be brought there if the privilege of speech were allowed) for the express purpose of saying all that could be said on one side of the question. He is a weight in *one* scale, and some one else holds the balance. This is the way in which truth is elicited in civil, and would be in criminal cases. But does *the Judge* ever assume the appearance of believing a prisoner to be innocent whom he thinks to be guilty? If the prisoner advances inconclusive or weak arguments, does not the judge say they are weak and inconclusive, and does he not often sum up against his own client? How then is he counsel for the prisoner? If the counsel for the prisoner were to see a strong point, which the counsel for the prosecution had missed, would he supply the deficiency of his antagonist, and urge what had been neglected to be urged? But is it not the imperious duty of the judge to do so? How then can these two functionaries stand in the same relation to the prisoner? In fact the only meaning of the phrase is this, that the judge will not suffer any undue advantage to be taken of the ignorance and helplessness of the prisoner—that he will point out any evidence or circumstance in his favour—and see that equal justice is done to both parties. But in this sense he is as much the counsel of the prosecutor as of the prisoner. This is all the judge can do, or even pretends to do; but he can have no previous communication with the prisoner—he can have no confidential communication in court with the prisoner before he sums up; he cannot fling the whole weight of his understanding into the opposite scale against the counsel for the prosecution, and produce that collision of faculties, which, in all other cases but those of felony, is supposed to be the happiest method of arriving at truth. Baron Garrow, in his charge to the grand jury at Exeter, on the 16th of August, 1824, thus expressed his opinion of a judge being counsel for the prisoner. 'It has been said, and truly said, that in criminal courts, judges were counsel for the prisoners. So undoubtedly they were, as far as they could to prevent undue prejudice, to guard against improper influence being excited against pri-

soners; but it was impossible for them to go farther than this; for they could not suggest the course of defence prisoners ought to pursue; for judges only saw the depositions so short a time before the accused appeared at the bar of their country, that it was quite impossible for them to act fully in that capacity.' The learned Baron might have added, that it would be more correct to call the judge counsel for the prosecution; for his only previous instructions were the depositions for the prosecution, from which, in the absence of counsel, he examined the evidence against the prisoner. On the prisoner's behalf he had no instructions at all.

Can any thing, then, be more flagrantly and scandalously unjust, than, in a long case of circumstantial evidence, to refuse to a prisoner the benefit of counsel? A foot-mark, a word, a sound, a tool dropped, all gave birth to the most ingenious inferences; and the counsel for the prosecution is so far from being blamable for entering into all these things, that they are all essential to the detection of guilt, and they are all links of a long and intricate chain: but if a close examination into, and a logical statement of, all these circumstances be necessary for the establishment of guilt, is not the same closeness of reasoning and the same logical statement necessary for the establishment of innocence? If justice cannot be done to society without the intervention of a practised and ingenious mind, who may connect all these links together, and make them clear to the apprehension of a jury, *can* justice be done to the prisoner, unless similar practice and similar ingenuity are employed to detect the flaws of the chain, and to point out the disconnection of the circumstances?

Is there any one gentleman in the House of Commons, who, in yielding his vote to this paltry and perilous fallacy of the judge being counsel for the prisoner, does not feel, that, were he himself a criminal, he would prefer almost any counsel at the bar, to the tender mercies of the judge? How strange that any man who could make his election would eagerly and diligently surrender this exquisite privilege, and addict himself to the perilous practice of giving fees to counsel? Nor let us forget, in considering judges as counsel for the prisoner, that there have been such men as Chief Justice Jeffries, Mr. Justice Page, and Mr. Justice Alybone, and that, in bad times, such men may reappear. 'If you do not allow me counsel, my lords (says Lord Lovat), it is impossible for me to make any

defence, by reason of my infirmity. I do not see, I do not hear. I come up to the bar at the hazard of my life. I have fainted several times, I have been up so early, ever since four o'clock this morning. I therefore ask for assistance; and if you do not allow me counsel, or such aid as is necessary, it will be impossible for me to make any defence at all.' Though Lord Lovat's guilt was evident, yet the managers of the impeachment felt so strongly the injustice which was done, that, by the hands of Sir W. Young, the chief manager, a bill was brought into parliament, to allow counsel to persons impeached by that house, which was not previously the case; so that the evil is already done away with, in a great measure, to persons of rank: it so happens in legislation, when a gentleman suffers, public attention is awakened to the evil of laws. Every man who makes laws says, 'This may be my case:' but it requires the repeated efforts of humane men, or, as Mr. North calls them, dilettanti philosophers, to awaken the attention of law-makers to evils from which they are themselves exempt. We do not say this to make the leaders of mankind unpopular, but to rouse their earnest attention in cases where the poor only are concerned, and where neither good nor evil can happen to themselves.

A great stress is laid upon the moderation of the opening counsel; that is, he does not conjure the farmers in the jury-box, by the love which they bear to their children—he does not declaim upon blood guiltiness—he does not describe the death of Able by Cain, the first murderer—he does not describe scattered brains, ghastly wounds, pale features, and hair clotted with gore—he does not do a thousand things, which are not in English taste, and which it would be very foolish and very vulgar to do. We readily allow all this. But yet, if it be a cause of importance, it is essentially necessary to our counsellor's reputation that his man should be hung! And accordingly, with a very calm voice, and composed manner, and with many expressions of candour, he sets himself to comment astutely upon the circumstances. Distant events are immediately connected; meaning is given to insignificant facts; new motives are ascribed to innocent actions; farmer gives way after farmer in the jury-box; and a rope of eloquence is woven round the prisoner's neck! Every one is delighted with the talents of the advocate; and because there has been no noise, no violent action, and no consequent perspiration,

he is praised for his candour and forbearance, and the lenity of our laws is the theme of universal approbation. In the mean time, the speech-maker and the prisoner know better.

We should be glad to know of any nation in the world, taxed by kings, or even imagined by poets (except the English), who have refused to prisoners the benefit of counsel. Why is the voice of humanity heard every where else, and disregarded here? In Scotland, the accused have not only counsel to speak for them, but a copy of the indictment, and a list of the witnesses. In France, in the Netherlands, in the whole of Europe, counsel are allotted as a matter of course. Every where else but here, accusation is considered as unfavourable to the exercise of human faculties. It is admitted to be that crisis in which, above all others, an unhappy man wants the aid of eloquence, wisdom, and coolness. In France the Napoleon code has provided not only that counsel should be allowed to the prisoner, but that, as with us in Scotland, his counsel should have the last word.

It is a most affecting moment in a court of justice, when the evidence has all been heard, and the judge asks the prisoner what he has to say in his defence. The prisoner, who has (by great exertions, perhaps of his friends,) saved up money enough to procure counsel, says to the judge, 'that he leaves his defence to his counsel.' We have often blushed for English humanity to hear the reply. 'Your counsel cannot speak for you, you must speak for yourself;' and this is the reply given to a poor girl of eighteen—to a foreigner—to a deaf man—to a stammerer—to the sick—to the feeble—to the old—to the most abject and ignorant of human beings! It is a reply, we must say, at which common sense and common feeling revolt:—for it is full of brutal cruelty, and of base inattention of those who make laws, to the happiness of those for whom laws were made. We wonder that any juryman can convict under such a shocking violation of all natural justice. The iron age of Clovis and Clottaire can produce no more atrocious violation of every good feeling, and every good principle. Can a sick man find strength and nerves to speak before a large assembly? —can an ignorant man find words?—can a low man find confidence? Is not he afraid of becoming an object of ridicule?—can he believe that his expressions will be understood? How often have we seen a poor wretch, struggling against the agonies of his spirit, and the rudeness of his conceptions, and his awe

of better dressed men and better taught men, and the shame which the accusation has brought upon his head, and the sight of his parents and children gazing at him in the court, for the last time, perhaps, and after a long absence? The mariner sinking in the wave does not want a helping hand more than does this poor wretch. But help is denied to all! Age cannot have it, nor ignorance, nor the modesty of women! One hard uncharitable rule silences the defenders of the wretched, in the worst of human evils; and at the bitterest of human moments, mercy is blotted out from the ways of men!

Suppose a crime to have been committed under the influence of insanity; is the insane man, now convalescent, to plead his own insanity?—to offer arguments to show that he must have been mad?—and, by the glimmerings of his returning reason, to prove that, at a former period, that same reason was utterly extinct? These are the cruel situations into which judges and courts of justice are thrown by the present state of the law.

There is a judge now upon the bench, who never took away the life of a fellow creature without shutting himself up alone and giving the most profound attention to every circumstance of the case! and this solemn act he always premises with his own beautiful prayer to God, that he will enlighten him with his Divine Spirit in the exercise of this terrible privilege! Now would it not be an immense satisfaction to this feeling and honourable magistrate, to be sure that every witness on the side of the prisoner had been heard, and that every argument which could be urged in his favour had been brought forward, by a man whose duty it was to see only on one side of the question, and whose interest and reputation were thoroughly embarked in this partial exertion? If a judge fails to get at the truth, after these instruments of investigation are used, his failure must be attributed to the limited powers of man—not to the want of good inclination, or wise institutions. We are surprised that such a measure does not come into Parliament, with the strong recommendation of the judges. It is surely better to be a day longer on the circuit, than to murder rapidly in ermine.

It is argued, that, among the various pleas for mercy that are offered, no prisoner has ever urged to the secretary of state the disadvantage of having no counsel to plead for him; but a prisoner who dislikes to undergo his sentence, naturally addresses to those who can reverse it such arguments only as

will produce, in the opinion of the referee, a pleasing effect. He does not therefore find fault with the established system of jurisprudence, but brings forward facts and arguments to prove his own innocence. Besides, how few people there are who can elevate themselves from the acquiescence in what *is*, to the consideration of what *ought to be;* and if they could do so, the way to get rid of a punishment is not (as we have just observed) to say, 'You have no right to punish me in this manner,' but to say, 'I am innocent of the offence.' The fraudulent baker at Constantinople, who is about to be baked to death in his own oven, does not complain of the severity of baking bakers, but promises to use more flour and less fraud.

Whence comes it (we should like to ask Sir John Singleton Copley, who seems to dread so much the conflicts of talent in criminal cases) that a method of getting at truth which is found so serviceable in civil cases should be so much objected to in criminal cases? Would you have all this wrangling and bickering, it is asked, and contentious eloquence, when the life of a man is concerned? Why not, as well as when his property is concerned? It is either a good means of doing justice, or it is not, that two understandings should be put in opposition to each other, and that a third should decide between them. Does this open every view which can bear upon the question? Does it in the most effectual manner watch the judge, detect perjury, and sift evidence? If not, why is it suffered to disgrace our civil institutions? If it effect all these objects, why is it not incorporated into our criminal law? Of what importance is a little disgust at professional tricks, if the solid advantage gained is a nearer approximation to truth? Can any thing be more preposterous than this preference of taste to justice, and of solemnity to truth? What an eulogium of a trial to say, 'I am by no means satisfied that the jury were right in finding the prisoner guilty; but every thing was carried on with the utmost decorum. The verdict was wrong; but there was the most perfect propriety and order in the proceedings. The man will be unfairly hanged; but all was genteel!' If solemnity is what is principally wanted in a court of justice, we had better study the manners of the old Spanish Inquisition; but if battles with the judge, and battles among the counsel, are the best method, as they certainly are, of getting at the truth, better tolerate this philosophical Billingsgate, than persevere,

because the life of a man is at stake, in solemn and polished injustice.

Why would it not be just as wise and equitable to leave the defendant without counsel in civil cases—and to tell him that the judge was his counsel? And if the reply is to produce such injurious effects as are anticipated upon the minds of the jury in criminal cases, why not in civil cases also? In twenty-eight cases out of thirty, the verdict in civil cases is correct; in the two remaining cases, the error may proceed from other causes than the right of reply; and yet the right of reply has existed in all. In a vast majority of cases, the verdict is for the plaintiff, not because there is a right of reply, but because he who has it in his power to decide whether he will go to law or not, and resolves to expose himself to the expense and trouble of a lawsuit, has probably a good foundation for his claim. Nobody, of course, can intend to say that the majority of verdicts in favour of plaintiffs are against justice, and merely attributable to the advantage of a last speech. If this were the case, the sooner advocates are turned out of court the better—and then the improvement of both civil and criminal law would be an abolition of all speeches; for those who dread the effect of the last word upon the fate of the prisoner, must remember that there is at present always a last speech against the prisoner; for, as the counsel for the prosecution cannot be replied to, *his* is the last speech.

There is certainly this difference between a civil and a criminal case—that in one a new trial can be granted, in the other not. But you must first make up your mind whether this system of contentious investigation by opposite advocates is or is not the best method of getting at truth: if it be, the more irremediable the decision, the more powerful and perfect should be the means of deciding; and then it would be a less oppression if the civil defendant were deprived of counsel than the criminal prisoner. When an error has been committed, the advantage is greater to the latter of these persons than to the former;—the criminal is not tried again, but pardoned; while the civil defendant must run the chance of another jury.

If the effect of reply, and the contention of counsel, have all these baneful consequences in felony, why not also in misdemeanour and high treason? Half the cases at sessions are cases of misdemeanour, where counsel are employed and half-informed justices preside instead of learned judges. There

are no complaints of the unfairness of verdicts, though there are every now and then of the severity of punishments. Now, if the reasoning of Mr. Lamb's opponents were true, the disturbing force of the prisoner's counsel must fling every thing into confusion. The court for misdemeanours must be a scene of riot and perplexity; and the detection and punishment of crime must be utterly impossible: and yet in the very teeth of these objections, such courts of justice are just as orderly in one set of offences as the other; and the conviction of a guilty person just as certain and as easy.

The prosecutor (if this system were altered) would have the choice of counsel; so he has now—with this difference, that, at present, his counsel cannot be answered nor opposed. It would be better, in all cases, if two men of exactly equal talent could be opposed to each other; but as this is impossible, the system must be taken with this inconvenience; but there can be no inequality between counsel so great as that between any counsel and the prisoner pleading for himself. 'It has been lately my lot,' says Mr. Denman, 'to try two prisoners who were deaf and dumb, and who could only be made to understand what was passing by the signs of their friends. The cases were clear and simple; but if they had been circumstantial cases, in what a situation would the judge and jury be placed, when the prisoner could have no counsel to plead for him.'—*Debates of the House of Commons, April* 25, 1826.

The folly of being counsel for yourself is so notorious in civil cases, that it has grown into a proverb. But the cruelty of the law compels a man, in criminal cases, to be guilty of a much greater act of folly, and to trust his life to an advocate, who, by the common sense of mankind, is pronounced to be inadequate to defend the possession of an acre of land.

In all cases it must be supposed, that reasonably convenient instruments are selected to effect the purpose in view. A judge may be commonly presumed to understand his profession, and a jury to have a fair allowance of common sense; but the objectors to the improvement we recommend appear to make no such suppositions. Counsel are always to make flashy addresses to the passions. Juries are to be so much struck with them, that they are always to acquit or to condemn, contrary to justice; and judges are always to be so biassed, that they are to fling themselves rashly into the opposite scale against the prisoner. Many cases of misdemeanour consign a man

to infamy, and cast a blot upon his posterity. Judges and juries must feel these cases as strongly as any cases of felony; and yet, in spite of this, and in spite of the free permission of counsel to speak, they preserve their judgment, and command their feelings surprisingly. Generally speaking, we believe none of these evils would take place. Trumpery declamation would be considered as discreditable to the counsel, and would be disregarded by the jury. The judge and jury (as in civil cases) would gain the habit of looking to the facts, selecting the arguments, and coming to reasonable conclusions. It is so in all other countries—and it would be so in this. But the vigilance of the judge is to relax, if there is counsel for the prisoner. Is, then, the relaxed vigilance of the judges complained of, in high treason, in misdemeanour, or in civil cases? This appears to us really to shut up the debate, and to preclude reply. *Why* is the practice so good in all other cases, and so pernicious in felony alone? This question has never received even the shadow of an answer. There is no one objection against the allowance of counsel to prisoners in felony, which does not apply to them in all cases. If the vigilance of judges depend upon this injustice to the prisoner, then, the greater injustice to the prisoner, the more vigilance; and so the true method of perfecting the Bench would be, to deny the prisoner the power of calling witnesses, and to increase as much as possible the disparity between the accuser and the accused. We hope men are selected for *the Judges of Israel*, whose vigilance depends upon better and higher principles.

There are three methods of arranging a trial, as to the mode of employing counsel—that both parties should have counsel, or neither—or only one. The first method is the best; the second is preferable to the last; and the last, which is our present system, is the worst possible. If counsel were denied to either of the parties, if it be necessary that any system of jurisprudence should be disgraced by such an act of injustice, they should rather be denied to the prosecutor than to the prisoner.

But the most singular caprice of the law is, that counsel are permitted in very high crimes, and in very small crimes, and denied in crimes of a sort of medium description. In high treason, where you mean to murder Lord Liverpool, and to levy war against the people, and to blow up the two houses of Parliament, all the lawyers of Westminster Hall may talk

themselves dry, and the jury deaf. Lord Eldon, when at the bar, has been heard for nine hours on such subjects. If, instead of producing the destruction of five thousand people, you are indicted for the murder of one person, here human faculties, from the diminution of guilt, are supposed to be so clear and so unclouded, that the prisoner is quite adequate to make his own defence, and no counsel are allowed. Take it then upon that principle; and let the rule, and the reason of it, pass as sufficient. But if, instead of murdering the man, you have only libelled him, then, for some reason or another, though utterly unknown to us, the original imbecility of faculties in accused persons is respected, and counsel *are* allowed. Was ever such nonsense defended by public men in grave assemblies? The prosecutor, too (as Mr. Horace Twiss justly observes), can either allow or disallow counsel, by selecting his form of prosecution;—as where a mob had assembled to repeal, by riot and force, some unpopular statute, and certain persons had continued in that assembly for more than an hour after proclamation to disperse. That might be treated as levying war against the king, and then the prisoner would be entitled to receive (as Lord George Gordon did receive) the benefit of counsel. It might also be treated as a seditious riot; then it would be a misdemeanour, and counsel would still be allowed. But if government had a mind to destroy the prisoner effectually, they have only to abstain from the charge of treason, and to introduce into the indictment the aggravation, that the prisoner had continued with the mob for an hour after proclamation to disperse; this is a felony, the prisoner's life is in jeopardy, and counsel are effectually excluded. It produces, in many other cases disconnected with treason, the most scandalous injustice. A receiver of stolen goods, who employs a young girl to rob her master, may be tried for the misdemeanour; the young girl taken afterwards would be tried for the felony. The receiver would be punishable only with fine, imprisonment, or whipping, and he could have counsel to defend him. The girl indicted for felony, and liable to death, would enjoy no such advantage.

In the comparison between felony and treason, there are certainly some arguments why counsel should be allowed in felony rather than in treason. Persons accused of treason are generally persons of education and rank, accustomed to assemblies, and to public speaking, while men accused of felony are com-

monly of the lowest of the people. If it be true, that judges, in cases of high treason, are more liable to be influenced by the crown, and to lean against the prisoner, this cannot apply to cases of misdemeanour, or to the defendants in civil cases; but if it be necessary, that judges should be watched in political cases, how often are cases of felony connected with political disaffection? Every judge, too, has his idiosyncrasies, which require to be watched. Some hate Dissenters—some mobs; some have one weakness, some another; and the ultimate truth is, that no court of justice is safe, unless there is some one present whose occupation and interest it is to watch the safety of the prisoner. Till then, no man of right feeling can be easy at the administration of justice, and the punishment of death.

Two men are accused of one offence; the one dexterous, bold, subtile, gifted with speech, and remarkable for presence of mind; the other timid, hesitating, and confused—is there any reason why the chances of these two men for acquittal should be, as they are, so very different? Inequalities there will be in the means of defence under the best system, but there is no occasion the law should make these greater than they are left by chance or nature.

But (it is asked) what practical injustice is done—what practical evil is there in the present system? The great object of all law is, that the guilty should be punished, and that the innocent should be acquitted. A very great majority of prisoners, we admit, are guilty—and so clearly guilty, that we believe they would be found guilty under any system; but among the number of those who are tried, *some* are innocent, and the chance of establishing their innocence is very much diminished by the privation of counsel. In the course of twenty or thirty years, among the whole mass of English prisoners, we believe *many* are found guilty who are innocent, and who would not have been found guilty, if an able and intelligent man had watched over their interest, and represented their case. If this happen only to two or three every year, it is quite a sufficient reason why the law should be altered. That such cases exist we firmly believe; and this is the practical evil—perceptible to men of sense and reflection; but not likely to become the subject of general petition. To ask why there are not petitions—why the evil is not more noticed, is mere parliamentary froth and ministerial juggling. Gentlemen are rarely hung. If they were so, there would be petitions without end for

counsel. The creatures exposed to the cruelties and injustice of the law are dumb creatures, who feel the evil without being able to express their feeling. Besides, the question is not, whether the evil is found out, but whether the evil exist. Whoever thinks it is an evil, should vote against it, whether the sufferer from the injustice discover it to be an injustice, or whether he suffer in ignorant silence. When the bill was enacted, which allowed counsel for treason, there was not a petition from one end of England to the other. Can there be a more shocking answer from the ministerial bench, than to say, For real evil we care nothing—only for detected evil? We will set about curing any wrong which affects our popularity and power: but as to any other evil, we wait till the people find it out; and, in the mean time, commit such evils to the care of Mr. George Lamb, and of Sir James Mackintosh. We are sure so good a man as Mr. Peel can never feel in this manner.

Howard devoted himself to his country. It was a noble example. Let two gentlemen on the ministerial side of the house (we only ask for two) commit some crimes, which will render their execution a matter of painful necessity. Let them feel, and report to the house, all the injustice and inconvenience of having neither a copy of the indictment, nor a list of witnesses, nor counsel to defend them. We will venture to say, that the evidence of two such persons would do more for the improvement of the criminal law, than all the orations of Mr. Lamb or the lucubrations of Beccaria. Such evidence would save time, and bring the question to an issue. It is a great duty, and ought to be fulfilled—and, in ancient Rome, would have been fulfilled.

The opponents always forget that Mr. Lamb's plan is not to *compel* prisoners to have counsel, but to *allow* them to have counsel, if they choose to do so. Depend upon it, as Dr. Johnson says, when a man is going to be hanged, his faculties are wonderfully concentrated. If it be really true, as the defenders of *Mumpsimus* observe, that the judge is the best counsel for the prisoner, the prisoner will soon learn to employ him, especially as his lordship works without fees. All that we want is an option given to the prisoner—that a man, left to adopt his own means of defence in every trifling civil right, may have the same power of selecting his own auxiliaries for higher interests.

But nothing can be more unjust than to speak of judges, as if they were of one standard, and one heart and head pattern. The great majority of judges, we have no doubt, are upright and pure; but some have been selected for flexible politics—some are passionate—some are in a hurry—some are violent churchmen—some resemble ancient females—some have the gout—some are eighty years old—some are blind, deaf, and have lost the power of smelling. All one to the unhappy prisoner—he has no choice.

It is impossible to put so gross an insult upon judges, jurymen, grand jurymen, or any person connected with the administration of justice, as to suppose that the longer time to be taken up by speeches of counsel constitutes the grand bar to the proposed alteration. If three hours would acquit a man, and he is hanged because he is only allowed two hours for his defence, the poor man is as much murdered as if his throat had been cut before he came into court. If twelve judges cannot do the most perfect justice, other twelve must be appointed. Strange administration of criminal law, to adhere obstinately to an inadequate number of judges, and to refuse any improvement which is incompatible with this arbitrary and capricious enactment. Neither is it quite certain that the proposed alteration would create a greater demand upon the time of the court. At present the counsel makes a defence by long cross-examinations and examinations in chief of the witnesses, and the judge allows a greater latitude than he would do, if the counsel of the prisoner were permitted to speak. The counsel by these oblique methods, and by stating false points of law for the express purpose of introducing facts, endeavours to obviate the injustice of the law, and takes up more time by this oblique, than he would do by a direct defence. But the best answer to this objection of time (which, if true, is no objection at all) is, that as many misdemeanours as felonies are tried in a given time, though counsel are allowed in the former, and not in the latter case.

One excuse for the absence of counsel is, that the evidence upon which the prisoner is convicted is always so clear, that the counsel cannot gainsay it. This is mere absurdity. There is not, and cannot be, any such rule. Many a man has been hung upon a string of circumstantial evidence, which not only very ingenious men, but very candid and judicious men, might criticise and call in question. If no one were found guilty but

upon such evidence as would not admit of a doubt, half the crimes in the world would be unpunished. This dictum, by which the present practice has often been defended, was adopted by Lord Chancellor Nottingham. To the lot of this chancellor, however, it fell to pass sentence of death upon Lord Stafford, whom (as Mr. Denman justly observes) no court of justice, not even the house of lords (constituted as it was in those days), could have put to death, if he had had counsel to defend him.

To improve the criminal law of England, and to make it really deserving of the incessant eulogium which is lavished upon it, we would assimilate trials for felony to trials for high treason. The prisoner should not only have counsel, but a copy of the indictment and a list of the witnesses, many days antecedent to the trial. It is in the highest degree unjust that I should not see and study the description of the crime with which I am charged, if the most scrupulous exactness be required in that instrument which charges me with crime. If the place *where*, the time *when*, and the manner *how*, and the persons by whom, must all be specified with the most perfect accuracy, if any deviation from this accuracy is fatal, the prisoner, or his legal advisers, should have a full opportunity of judging whether the scruples of the law have been attended to in the formation of the indictment; and they ought not to be confined to the hasty and imperfect consideration which can be given to an indictment exhibited for the first time in court. Neither is it possible for the prisoner to repel accusation till he knows who is to be brought against him. He may see suddenly, stuck up in the witness's box, a man who has been writing him letters, to extort money from the threat of evidence he could produce. The character of such a witness would be destroyed in a moment, if the letters were produced; and the letters would have been produced, of course, if the prisoner had imagined such a person would have been brought forward by the prosecutor. It is utterly impossible for a prisoner to know in what way he may be assailed, and against what species of attacks he is to guard. Conversations may be brought against him which he has forgotten, and to which he could (upon notice) have given another colour and complexion. Actions are made to bear upon his case, which (if he had known they would have been referred to) might have been explained in the most satisfactory manner. All these modes of attack are

pointed out by the list of witnesses transmitted to the prisoner, and he has time to prepare his answer, as it is perfectly just he should have. This is justice, when a prisoner has ample means of compelling the attendance of his witnesses; when his written accusation is put into his hand, and he has time to study it—when he knows in what manner his guilt is to be proved, and when he has a man of practised understanding to state his facts, and prefer his arguments. Then criminal justice may march on boldly. The judge has no stain of blood on his ermine; and the phrases which English people are so fond of lavishing upon the humanity of their laws, will have a real foundation. At present this part of the law is a mere relic of the barbarous injustice by which accusation in the early part of our jurisprudence was always confounded with guilt. The greater part of these abuses have been brushed away, as this cannot fail soon to be. In the mean time it is defended (as every other abuse has been defended) by men who think it their duty to defend every thing which *is*, and to dread every thing which *is not*. We are told that the judge does what he does not do, and ought not to do. The most pernicious effects are anticipated in trials of felony, from that which is found to produce the most perfect justice in civil causes, and in cases of treason and misdemeanour: we are called upon to continue a practice without example in any other country, and are required by lawyers to consider that custom as humane, which every one who is not a lawyer pronounces to be most cruel and unjust—and which has not been brought forward to general notice, only because its bad effects are confined to the last and lowest of mankind.*

* All this nonsense is now put an end to. Counsel is allowed to the prisoner, and they are permitted to speak in his defence.

CATHOLICS. (Edinburgh Review, 1827.)

1. *A Plain Statement in support of the Political Claims of the Roman Catholics; in a Letter to the Rev. Sir George Lee, Bart.* By Lord Nugent, Member of Parliament for Aylesbury. London, Hookham. 1826.
2. *A Letter to Viscount Milton, M.P.* By One of his Constituents. London, Ridgway. 1827.
3. *Charge by the Archbishop of Cashel.* Dublin, Milliken.

If a poor man were to accept a guinea upon the condition that he spoke all the evil he could of another whom he believed to be innocent, and whose imprisonment he knew he should prolong, and whose privations he knew he should increase by his false testimony, would not the person so hired be one of the worst and basest of human beings? And would not his guilt be aggravated, if, up to the moment of receiving his *aceldama*, he had spoken in terms of high praise of the person whom he subsequently accused? Would not the latter feature of the case prove him to be as much without shame as the former evinced him to be without principle? Would the guilt be less, if the person so hired were a man of education? Would it be less, if he were above want? Would it be less, if the profession and occupation of his life were to decide men's rights, or to teach them morals and religion? Would it be less by the splendour of the bribe? Does a bribe of 3000*l.* leave a man innocent, whom a bribe of 30*l.* would cover with infamy? You are of a mature period of life, when the opinions of an honest man ought to be, and are fixed. On Monday you were a barrister or a country clergyman, a serious and temperate friend to religious liberty and Catholic emancipation. In a few weeks from this time you are a bishop, or a dean, or a judge—publishing and speaking charges and sermons against the poor Catholics, and explaining away this sale of your soul by every species of falsehood, shabbiness, and equivocation. You may carry a bit of ermine on your shoulder, or hide the lower moiety of the body in a silken petticoat—and men may

call you Mr. Dean, or My Lord; but you have sold your honour and your conscience for money; and, though better paid, you are as base as the witness who stands at the door of the judgment-hall, to swear whatever the suborner will put into his mouth, and to receive whatever he will put in his pocket.*

When soldiers exercise, there stands a goodly portly person out of the ranks, upon whom all eyes are directed, and whose signs and motions, in the performance of the manual exercise, all the soldiers follow. The Germans, we believe, call him a *Flugelman.* We propose Lord Nugent as a political flugelman;—he is always consistent, plain and honest, steadily and straightly pursuing his object without hope or fear, under the influence of good feelings and high principle. The House of Commons does not contain within its walls a more honest, upright man.

We seize upon the opportunity which this able pamphlet of his lordship affords us, to renew our attention to the Catholic question. There is little new to be said; but we must not be silent, or, in these days of baseness and tergiversation, we shall be supposed to have deserted our friend the Pope; and they will say of us, *Prostant venales apud Lambeth et Whitehall.* God forbid it should ever be said of us with justice—it is pleasant to loll and roll, and to accumulate—to be a purple and fine linen man, and to be called by some of those nicknames which frail and ephemeral beings are so fond of accumulating upon each other;—but the best thing of all is to live like honest men, and to add something to the cause of liberality, justice, and truth.

The Letter to Lord Milton is very well and very pleasantly written. We were delighted with the liberality and candour of the Archbishop of Cashel. The charge is in the highest degree creditable to him. He must lay his account for the furious hatred of bigots, and the incessant gnawing of rats.

There are many men who (thoroughly aware that the Catholic question must be ultimately carried) delay their acquiescence till the last moment, and wait till the moment of peril and civil war before they yield. That this moment is not

* It is very far from our intention to say that all who were for the Catholics, and are now against them, have made this change from base motives; it is equally far from our intention not to say that many men of both professions have subjected themselves to this shocking imputation.

quite so remote as was supposed a twelvemonth since, the events now passing in the world seem to afford the strongest proof. The truth is, that the disaffected state of Ireland is a standing premium for war with every cabinet in Europe which has the most distant intention of quarrelling with this country for any other cause. '*If we are to go to war, let us do so when the discontents of Ireland are at their greatest height, before any spirit of concession has been shown by the British cabinet.*' Does any man imagine that so plain and obvious a principle has not been repeatedly urged on the French cabinet?—that the eyes of the Americans are shut upon the state of Ireland—and that that great and ambitious republic will not, in case of war, aim a deadly blow at this most sensitive part of the British empire? We should really say, that England has fully as much to fear from Irish fraternization with America as with France. The language is the same; the Americans have preceded them in the struggle; the number of emigrant and rebel Irish is very great in America; and all parties are sure of perfect toleration under the protection of America. We are astonished at the madness and folly of Englishmen, who do not perceive that both France and America are only waiting for a convenient opportunity to go to war with this country; and that one of the first blows aimed at our independence would be the invasion of Ireland.

We should like to argue this matter with a regular tory lord, whose members vote steadily against the Catholic question. 'I wonder that mere fear does not make you give up the Catholic question! Do you mean to put this fine place in danger—the venison—the pictures—the pheasants—the cellars—the hot-house and the grapery? Should you like to see six or seven thousand French or Americans landed in Ireland, and aided by a universal insurrection of the Catholics? Is it worth your while to run the risk of their success? What evil from the possible encroachment of Catholics, by civil exertions, can equal the danger of such a position as this? How can a man of your carriages, and horses, and hounds, think of putting your high fortune in such a predicament, and crying out, like a schoolboy or a chaplain, "Oh, we shall beat them! we shall put the rascals down!" No Popery, I admit to your lordship, is a very convenient cry at an election, and has answered your end; but do not push the matter too far: to bring on a civil war for no popery is a very foolish pro-

ceeding in a man who has two courses, and a remove! As you value your side-board of plate, your broad riband, your pier glasses—if obsequious domestics and large rooms are dear to you—if you love ease and flattery, titles and coats of arms—if the labour of the French cook, the dedication of the expecting poet, can move you—if you hope for a long life of side-dishes—if you are not insensible to the periodical arrival of the turtle fleets—emancipate the Catholics! Do it for your ease, do it for your insolence, do it for your safety—emancipate and eat, emancipate and drink—emancipate, and preserve the rent-roll and the family estate!'

The most common excuse of the *Great Shabby* is, that the Catholics are their own enemies—that the violence of Mr. O'Connell and Mr. Shiel have ruined their cause—that, but for these boisterous courses, the question would have been carried before this time. The answer to this nonsense and baseness is, that the very reverse is the fact. The mild and the long-suffering may suffer for ever in this world. If the Catholics had stood with their hands before them simpering at the Earls of Liverpool and the Lords Bathurst of the moment, they would not have been emancipated till the year of our Lord four thousand. As long as the patient will suffer, the cruel will kick. No treason—no rebellion—but as much stubbornness and stoutness as the law permits—a thorough intimation that you know what is your due, and that you are determined to have it if you can *lawfully* get it. This is the conduct we recommend to the Irish. If they go on withholding, and forbearing, and hesitating whether this is the time for the discussion or that is the time, they will be laughed at for another century as fools—and kicked for another century as slaves. 'I must have my bill paid (says the sturdy and irritated tradesman); your master has put me off twenty times under different pretences. I know he is at home, and I will not quit the premises till I get the money.' Many a tradesman gets paid in this manner, who would soon smirk and smile himself into the gazette, if he trusted to the promises of the great.

Can any thing be so utterly childish and foolish as to talk of the bad taste of the Catholic leaders?—as if, in a question of conferring on, or withholding important civil rights from seven millions of human beings, any thing could arrest the attention of a wise man but the good or evil consequences of

so great a measure. Suppose Mr. S. does smell slightly of tobacco—admit Mr. L. to be occasionally stimulated by rum and water—allow that Mr. F. was unfeeling in speaking of the Duke of York—what has all this nonsense to do with the extinction of religious hatred and the pacification of Ireland? Give it if it is right, refuse it if it is wrong. How it is asked, or how it is given or refused, is less than the dust of the balance.

What is the real reason why a good honest tory, living at ease on his possessions, is an enemy to Catholic emancipation? He admits the Catholic of his own rank to be a gentleman, and not a bad subject—and about theological disputes an excellent tory never troubles his head. Of what importance is it to him whether an Irish Catholic or an Irish Protestant is a judge in the King's Bench at Dublin? None; but *I am afraid for the church of Ireland*, says our alarmist. Why do you care so much for the church of Ireland, a country you never live in?—*Answer—I do not care so much for the church of Ireland, if I was sure the Church of England would not be destroyed.*—And is it for the Church of England alone that you fear?—*Answer—Not quite to that, but I am afraid we should all be lost, that every thing would be overturned, and that I should lose my rank and my estate.* Here, then, we say, is a long series of dangers, which (if there were any chance of their ever taking place) would require half a century for their development; and the danger of losing Ireland by insurrection and invasion, which may happen in six months, is utterly overlooked, and forgotten. And if a foreign influence should ever be fairly established in Ireland, how many hours would the Irish church, how many months would the English church, live after such an event? How much is any English title worth after such an event—any English family—any English estate? We are astonished that the brains of rich Englishmen do not fall down into their bellies in talking of the Catholic question—that they do not reason through the cardia and the pylorus—that all the organs of digestion do not become intellectual. The descendants of the proudest noblemen in England may become beggars in a foreign land from this disgraceful nonsense of the Catholic question—fit only for the ancient females of a market town.

What alarms us in the state of England is the uncertain basis on which its prosperity is placed—and the prodigious

mass of hatred which the English government continues, by its obstinate bigotry, to accumulate—eight hundred and forty millions sterling of debt. The revenue depending upon the demand for the shoes, stockings, and breeches of Europe—and seven millions of Catholics in a state of the greatest fury and exasperation. We persecute as if we did not *owe* a shilling—we spend as if we had no disaffection. This, by possibility, may go on; but it is dangerous walking—the chance is, there will be a fall. No wise man should take such a course. All probabilities are against it. We are astonished that Lord Hertford and Lord Lowther, shrewd and calculating tories, do not see that it is nine to one against such a game.

It is not only the event of war we fear in the military struggle with Ireland; but the expense of war, and the expenses of the English government, are paving the way for future revolutions. The world never yet saw so extravagant a government as the government of England. Not only is economy not practised—but it is despised; and the idea of it connected with disaffection, Jacobinism, and Joseph Hume. Every rock in the ocean where a cormorant can perch is occupied by our troops—has a governor, deputy-governor, store-keeper, and deputy-store-keeper—and will soon have an archdeacon and a bishop. Military colleges, with thirty-four professors, educating seventeen ensigns per annum, being half an ensign for each professor, with every species of nonsense, athletic, sartorial, and plumigerous. A just and necessary war costs this country about one hundred pounds a minute; whipcord fifteen thousand pounds; red tape seven thousand pounds; lace for drummers and fifers, nineteen thousand pounds; a pension to one man who has broken his head at the Pole; to another who has shattered his leg at the Equator; subsidies to Persia; secret service-money to Thibet; an annuity to Lady Henry Somebody and her seven daughters—the husband being shot at some place where we never ought to have had any soldiers at all; and the elder brother returning four members to Parliament. Such a scene of extravagance, corruption, and expense as must paralyze the industry, and mar the fortunes, of the most industrious, spirited people that ever existed.

Few men consider the historical view which will be taken of present events. The bubbles of last year; the fishing for half-crowns in Vigo Bay; the Milk Muffin and Crumpet Companies; the Apple, Pear, and Plum Associations; the

National Gooseberry and Currant Company; will all be remembered as instances of that partial madness to which society is occasionally exposed. What will be said of all the intolerable trash which is issued forth at public meetings of No Popery? The follies of one century are scarcely credible in that which succeeds it. A grandmamma of 1827 is as wise as a very wise man of 1727. If the world lasts till 1927, the grandmammas of that period will be far wiser than the tip-top No-Popery men of this day. That this childish nonsense will have got out of the drawing-room, there can be no doubt. It will most probably have passed through the steward's room—and butler's pantry, into the kitchen. This is the case with ghosts. They no longer loll on couches and sip tea; but are down on their knees scrubbing with the scullion—or stand sweating, and basting with the cook. Mrs. Abigail turns up her nose at them, and the housekeeper declares for flesh and blood, and will have none of their company.

It is delicious to the persecution-fanciers to reflect that no general bill has passed in favour of the Protestant Dissenters. They are still disqualified from holding any office—and are only protected from prosecution by an annual indemnity act. So that the sword of Damocles still hangs over them—not suspended, indeed, by a thread, but by a cart-rope—still it hangs there an insult, if not an injury, and prevents the painful idea from presenting itself to the mind of perfect toleration, and pure justice. There is the larva of tyranny, and the skeleton of malice. Now this is all we presume to ask for the Catholics—admission to Parliament, exclusion from every possible office by law, and annual indemnity for the breach of law. This is surely much more agreeable to feebleness, to littleness, and to narrowness, than to say the Catholics are as free and as eligible as ourselves.

The most intolerable circumstance of the Catholic dispute is, the conduct of the Dissenters. Any man may dissent from the Church of England, and preach against it, by paying sixpence. Almost every tradesman in a market town is a preacher. It must absolutely be ride and tie with them; the butcher must hear the baker in the morning, and the baker listen to the butcher in the afternoon, or there would be no congregation. We have often speculated upon the peculiar trade of the preacher from his style of action. Some have a tying-up or parcel-packing action; some strike strongly against

the anvil of the pulpit; some screw, some bore, some act as if they were managing a needle. The occupation of the preceding week can seldom be mistaken. In the country, three or four thousand Ranters are sometimes encamped, supplicating in religious platoons, or roaring psalms out of waggons. Now, all this freedom is very proper; because, though it is abused, yet in truth there is no other principle in religious matters, than to let men alone as long as they keep the peace. Yet we should imagine this unbounded license of Dissenters should teach them a little charity towards the Catholics, and a little respect for their religious freedom. But the picture of sects is this—there are twenty fettered men in a jail, and every one is employed in loosening his own fetters with one hand, and riveting those of his neighbour with the other.

'"If, then," says a minister of our own church, the Reverend John Fisher, rector of Wavenden, in this county, in a sermon published some years ago, and entitled "The Utility of the Church Establishment, and its Safety consistent with Religious Freedom"—"If, then, the Protestant religion could have originally worked its way in this country against numbers, prejudices, bigotry, and interest; if, in times of its infancy, the power of the prince could not prevail against it; surely, when confirmed by age, and rooted in the affections of the people—when invested with authority, and in full enjoyment of wealth and power—when cherished by a sovereign who holds his very throne by this sacred tenure, and whose conscientious attachment to it well warrants the title of Defender of the Faith—surely any attack upon it must be contemptible, any alarm of danger must be imaginary."'—*Lord Nugent's Letter*, p. 18.

To go into a committee upon the state of the Catholic laws is to reconsider, as Lord Nugent justly observes, passages in our domestic history, which bear date about 270 years ago. Now, what human plan, device, or invention, 270 years old, does not require reconsideration? If a man drest as he drest 270 years ago, the pug-dogs in the streets would tear him to pieces. If he lived in the houses of 270 years ago, unrevised and uncorrected, he would die of rheumatism in a week. If he listened to the sermons of 270 years ago, he would perish with sadness and fatigue; and when a man cannot make a coat or a cheese, for 50 years together, without making them better, can it be said that laws made in those days of ignorance, and framed in the fury of religious hatred, need no revision, and are capable of no amendment?

We have not the smallest partiality for the Catholic religion;

quite the contrary. That it should exist at all—that all Catholics are not converted to the Protestant religion—we consider to be a serious evil; but there they are, with their spirit as strong, and their opinions as decided, as your own; the Protestant part of the cabinet have quite given up all idea of putting them to death; what remains to be done? We all admit the evil; the object is to make it as little as possible. One method commonly resorted to, we are sure, does not lessen, but increase the evil; and that is, to falsify history, and deny plain and obvious facts, to the injury of the Catholics. No true friend to the Protestant religion, and to the Church of England, will ever have recourse to such disingenuous arts as these.

'Our histories have not, I believe, stated what is untrue of Queen Mary, nor, perhaps, have they very much exaggerated what is true of her; but our arguers, whose only talk is of Smithfield, are generally very uncandid in what they conceal. It would appear to be little known, that the statutes which enabled Mary to burn those who had conformed to the church of her father and brother, were Protestant statutes, declaring the common law against heresy, and framed by her father Henry the Eighth, and confirmed and acted upon by order of council of her brother Edward the Sixth, enabling that mild and temperate young sovereign to burn divers misbelievers, by sentence of commissioners (little better, says Neale, than a Protestant Inquisition) appointed to "examine and search after all Anabaptists, Heretics, or contemners of the Book of Common Prayer." It would appear to be seldom considered, that her zeal might very possibly have been warmed by the circumstance of both her chaplains having been imprisoned for their religion, and herself arbitrarily detained, and her safety threatened, during the short but persecuting reign of her brother. The sad evidences of the violence of those days are by no means confined to her acts. The fagots of persecution were not kindled by Papists only, nor did they cease to blaze when the power of using them as instruments of conversion ceased to be in Popish hands. Cranmer himself, in his dreadful death, met with but equal measure for the flames to which he had doomed several who denied the *spiritual* supremacy of Henry the Eighth; to which he had doomed also a Dutch Arian, in Edward the Sixth's reign; and to which, with great pains and difficulty, he had persuaded that prince to doom another miserable enthusiast, Joan Bocher, for some metaphysical notions of her own on the divine incarnation. "So that on both sides" (says Lord Herbert of Cherbury) "it grew a bloody time." Calvin burned Servetus at Geneva, for "discoursing concerning the Trinity contrary to the sense of the whole church: and thereupon set forth a book wherein he giveth an account of his doctrine, and of whatever else had passed in this affair, and teacheth that the sword may be lawfully employed against heretics." Yet Calvin was no Papist. John Knox extolled

in his writings, as "the godly fact of James Melvil," the savage murder by which Cardinal Beaton was made to expiate his many and cruel persecutions; a murder to which, by the great popular eloquence of Knox, his fellow-labourers in the vineyard of reformation, Lesly and Melvil, had been excited; and yet John Knox, and Lesly and Melvil, were no Papists. Henry the Eighth, whose one virtue was impartiality in these matters (if an impartial and evenly balanced persecution of all sects be a virtue,) beheaded a chancellor and a bishop, because having admitted his civil supremacy, they doubted his spiritual. Of the latter of them Lord Herbert says, "The pope, who suspected not perchance, that the bishop's end was so near, had, for more testimony of his favour to him as disaffection to our king, sent him a cardinal's hat; but unseasonably, his head being off." He beheaded the Countess of Salisbury, because at upwards of eighty years old she wrote a letter to Cardinal Pole, her own son: and he burned Barton, the "Holy Maid of Kent," for a prophecy of his death. He burned four Anabaptists in one day for opposing the doctrine of infant baptism; and he burned Lambert, and Anne Ascue, and Belerican, and Lassells, and Adams, on another day, for opposing that of transubstantiation; with many others of lesser note, who refused to subscribe to his Six Bloody Articles, as they were called, or whose opinions fell short of his, or exceeded them, or who abided by opinions after he had abandoned them; and all this after the Reformation. And yet Henry the Eighth was the sovereign who first delivered us from the yoke of Rome.

'In later times, thousands of Protestant Dissenters of the four great sects were made to languish in loathsome prisons, and hundreds to perish miserably, during the reign of Charles the Second, under a Protestant high church government, who then first applied, in the prayer for the Parliament, the epithets of "most religious and gracious," to a sovereign whom they knew to be profligate and unprincipled beyond example, and had reason to suspect to be a concealed Papist.

'Later still, Archbishop Sharpe was sacrificed by the murderous enthusiasm of certain Scotch Covenanters, who yet appear to have sincerely believed themselves inspired by Heaven to this act of cold-blooded barbarous assassination.

'On subjects like these, silence on all sides, and a mutual interchange of repentance, forgiveness, and oblivion, is wisdom. But to quote grievances on one side only, is not honesty.'—*Lord Nugent's Letter*, pp. 24—27.

Sir Richard Birnie can only attend to the complaints of individuals; but no cases of swindling are brought before him so atrocious as the violation of the treaty of Limerick, and the disappointment of those hopes, and the frustration of that arrangement; which hopes, and which arrangements, were held out as one of the great arguments for the union. The chapter of English fraud comes next to the chapter of English cruelty, in the history of Ireland—and both are equally disgraceful.

Nothing can be more striking than the conduct of the parent legislature to the legislature of the West Indian Islands. 'We cannot leave you to yourselves upon these points' (says the English government); 'the wealth of the planter and the commercial prosperity of the island are not the only points to be looked to. We must look to the general rights of humanity, and see that they are not outraged in the case of the poor slave. It is impossible we can be satisfied, till we know that he is placed in a state of progress and amelioration.' How beautiful is all this! and how wise, and how humane and affecting are our efforts throughout Europe to put an end to the slave trade? Wherever three or four negotiators are gathered together, a British diplomate appears among them, with some article of kindness and pity for the poor negro. All is mercy and compassion, except when wretched Ireland is concerned. The saint who swoons at the lashes of the Indian slave is the encourager of No-Popery meetings, and the hard, bigoted, domineering tyrant of Ireland.

See the folly of delaying to settle a question, which in the end, must be settled, and, ere long, to the advantage of the Catholics. How the price rises by delay! This argument is extremely well put by Lord Nugent.

'I should observe that two occasions have already been lost of granting these claims, coupled with what were called securities, such as never can return. In 1808, the late Duke of Norfolk and Lord Grenville, in the one house, and Mr. Ponsonby and Mr. Grattan, in the other, were authorized by the Irish Catholic body to propose a negative to be vested in the crown upon the appointment of their bishops. Mr. Perceval, the chancellor, and the spiritual bench, did not see the importance of this opportunity. It was rejected; the Irish were driven to despair; and in the same tomb with the question of 1808 lies for ever buried the veto. The same was the fate with what were called the "wings" attached to Sir Francis Burdett's bill of last year. I voted for them, not for the sake certainly of extending the patronage of the crown over a new body of clergy, nor yet for the sake of diminishing the popular character of elections in Ireland, but because Mr. O'Connell, and because some of the Protestant friends of the measure who knew Ireland the best, recommended them; and because I believed, from the language of some who supported it only on these conditions, that they offered the fairest chance for the measure being carried. I voted for them as the price of Catholic emancipation, for which I can scarcely contemplate any Irish price that I would not pay. With the same object, I would vote for them again; but I shall never again have the opportunity. For these also, if they were thought of any value as securities, the events of this year in

Ireland have shown you that you have lost for ever. And the necessity of the great measure becomes every day more urgent and unavoidable.'—*Lord Nugent's Letter*, pp. 71, 72.

Can any man living say that Ireland is not in a much more dangerous state than it was before the Catholic convention began to exist?—that the inflammatory state of that country is not becoming worse and worse?—that those men whom we call demagogues and incendiaries have not produced a very considerable and alarming effect upon the Irish population? Where is this to end? But the fool lifteth up his voice in the coffee-house, and sayeth, 'We shall give them an hearty thrashing: let them arise—the sooner the better—we will soon put them down again.' The fool sayeth this in the coffee-house, and the greater fool praiseth him. But does Lord Stowell say this? does Mr. Peel say this? does the Marquis of Hertford say this? do sensible, calm, and reflecting men like these, not admit the extreme danger of combating against invasion and disaffection, and this with our forces spread in active hostility over the whole face of the globe? Can they feel this vulgar, hectoring certainty of success, and stupidly imagine that a thing cannot be because it has never yet been? because we have hitherto maintained our tyranny in Ireland against all Europe, that we are always to maintain it? And then, what if the struggle does at last end in our favour? Is the loss of English lives and of English money not to be taken into account? Is this the way in which a nation overwhelmed with debt, and trembling whether its looms and ploughs will not be overmatched by the looms and ploughs of the rest of Europe — is this the way in which such a country is to husband its resources? Is the best blood of the land to be flung away in a war of hassocks and surplices? Are cities to be summoned for the Thirty-nine Articles, and men to be led on to the charge by professors of divinity? The expense of *keeping* such a country must be added to all other enormous expenses. What is really possessed of a country so subdued? four or five yards round a sentry-box, and no more. And in twenty years' time it is all to do over again—another war—another rebellion, and another enormous and ruinously expensive contest, with the same dreadful uncertainty of the issue! It is forgotten, too, that a new feature has arisen in the history of this country. In all former insurrections in Ireland no democratic party existed in England. The efforts of govern-

ment were left free and unimpeded. But suppose a stoppage in your manufactures coincident with a rising of the Irish Catholics, when every soldier is employed in the sacred duty of Papist-hunting. Can any man contemplate such a state of things without horror? Can any man say that he is taken by surprise for such a combination? Can any man say that any danger to church or state is comparable to this? But for the prompt interference of the military in the early part of 1826, three or four hundred thousand starving manufacturers would have carried ruin and destruction over the north of England, and over Scotland. These dangers are inseparable from an advanced state of manufactures—but they need not the addition of other and greater perils, which need not exist in any country too wise and too enlightened for persecution.

Where is the weak point in these plain arguments? Is it the remoteness of the chance of foreign war? Alas! we have been at war 35 minutes out of every hour since the peace of Utrecht. The state of war seems more natural to man than the state of peace; and if we turn from general probabilities to the state of Europe—Greece to be liberated—Turkey to be destroyed—Portugal and Spain to be made free—the wounded vanity of the French, the increasing arrogance of the Americans, and our own philopolemical folly, are endless scenes of war. We believe it at all times a better speculation to make ploughshares into swords than swords into ploughshares. If war is certain, we believe insurrection to be quite as certain. We cannot believe but that the French or the Americans would, in case of war, make a serious attempt upon Ireland, and that all Ireland would rush, tail foremost, into insurrection.

A new source of disquietude and war has lately risen in Ireland. Our saints are evangelical people, or serious people, or by whatever name they are to be designated, have taken the field in Ireland against the pope, and are converting in the large way. Three or four Irish Catholic prelates take a post-chaise, and curse the converters and the converted. A battle royal ensues with shillelas: the policeman comes in, and, reckless of Lambeth or the Vatican, makes no distinction between what is perpendicular, and what is hostile, but knocks down every body, and every thing which is upright; and so the feud ends for the day. We have no doubt but that these efforts will tend to bring things to a crisis much sooner be-

tween the parties, than the disgraceful conduct of the cabinet alone would do.

'It is a charge not imputed by the laws of England, nor by the oaths which exclude the Catholics: for those oaths impute only spiritual errors. But it is imputed, which is more to the purpose, by those persons who approve of the excluding oaths, and wish them retained. But, to the whole of this imputation, even if no other instance could be adduced, as far as a strong and remarkable example can prove the negative of an assumption which there is not a single example to support—the full, and sufficient, and incontestable answer is Canada. Canada, which, until you can destroy the memory of all that now remains to you of your sovereignty on the North American continent, is an answer practical, memorable, difficult to be accounted for, but blazing as the sun itself in sight of the whole world, to the whole charge of divided allegiance. At your conquest of Canada, you found it Roman Catholic; you had to choose for her a constitution in church and state. You were wise enough not to thwart public opinion. Your own conduct towards Presbyterianism in Scotland was an example for imitation; your own conduct towards Catholocism in Ireland was a beacon for avoidance; and in Canada you established and endowed the religion of the people. Canada was your only Roman Catholic colony. Your other colonies revolted; they called on a Catholic power to support them, and they achieved their independence. Catholic Canada, with what Lord Liverpool would call her half-allegiance, *alone* stood by you. She fought by your side against the interference of Catholic France. To reward and encourage her loyalty, you endowed in Canada bishops to say mass, and to ordain others to say mass, whom, at that very time, your laws would have hanged for saying mass in England; and Canada is still yours, in spite of Catholic France, in spite of her spiritual obedience to the pope, in spite of Lord Liverpool's argument, and in spite of the independence of all the states that surround her. This is the only trial you have made. Where you allow to the Roman Catholics their religion undisturbed, it has proved itself to be compatible with the most faithful allegiance. It is only where you have placed allegiance and religion before them as a dilemma, that they have preferred (as who will say they ought not?) their religion to their allegiance. How then stands the imputation? Disproved by history, disproved in all states where both religions co-exist. and in both hemispheres, and asserted in an exposition by Lord Liverpool, solemnly and repeatedly abjured by all Catholics, of the discipline of *their* church.'—*Lord Nugent's Letter*, pp. 35, 36.

Can any man who has gained permission to take off his strait-waistcoat, and been out of Bedlam three weeks, believe that the Catholic question will be set to rest by the conversion of the Irish Catholics to the Protestant religion? The best chance of conversion will be gained by taking care that the point of honour is not against conversion.

'We may, I think, collect from what we know of the ordinary feelings of men that, by admitting all to a community of political benefits, we should remove a material impediment that now presents itself to the advances of proselytism to our established mode of worship; particularly assuming, as we do, that it is the purest, and that the disfranchised mode is supported only by superstition and priestcraft. By external pressure and restraint, things are compacted as well in the moral as in the physical world. Where a sect is at spiritual variance with the established church, it only requires an abridgment of civil privileges to render it at once a political faction. Its members become instantly pledged, some from enthusiasm, some from resentment, and many from honourable shame, to cleave with desperate fondness to the suffering fortunes of an hereditary religion. Is this human nature, or is it not? Is it a natural or an unnatural feeling for the representative of an ancient Roman Catholic family, even if in his heart he rejected the controverted tenets of his early faith, to scorn an open conformity to ours, so long as such conformity brings with it the irremovable suspicion that faith and conscience may have bowed to the base hope of temporal advantage? Every man must feel and act for himself: but, in my opinion, a good man might be put to difficulty to determine whether more harm is not done by the example of one changing his religion to his worldly advantage, than good by his openly professing conformity from what we think error to what we think truth.'—*Lord Nugent's Letter*, pp. 54, 55.

'We will not be bullied out of the Catholic question.' This is a very common text, and requires some comment. If you mean that the sense of personal danger shall never prevent you from doing what you think right—this is a worthy and proper feeling, but no such motive is suspected, and no such question is at issue. Nobody doubts but that any English gentleman would be ready to join his No-Popery corps, and to do his duty to the community, if the government required it; but the question is, Is it worth while in the government to require it? Is it for the general advantage that such a war should be carried on for such an object? It is a question not of personal valour, but of political expediency. Decide seriously if it is worth the price of civil war to exclude the Catholics, and act accordingly; taking it for granted that you possess, and that every body supposes you to possess, the vulgar attribute of personal courage; but do not draw your sword like a fool, from the unfounded apprehension of being called a coward.

We have great hopes of the Duke of Clarence. Whatever else he may be, he is not a bigot—not a person who thinks it necessary to show respect to his royal father, by prolonging

the miseries and incapacities of six millions of people. If he ascends the throne of these realms, he must stand the fire of a few weeks' clamour and unpopularity. If the measure is passed by the end of May, we can promise his royal highness it will utterly be forgotten before the end of June. Of all human nonsense, it is surely the greatest to talk of respect to the late king—respect to the memory of the Duke of York—by not voting for the Catholic question. Bad enough to burn widows when the husband dies—bad enough to burn horses, dogs, butlers, footmen, and coachmen, on the funeral pile of a Scythian warrior—but to offer up the happiness of seven millions of people to the memory of the dead, is certainly the most insane sepulchral oblation of which history makes mention. The best compliment to these deceased princes, is to remember their real good qualities, and to forget (as soon as we can forget it) that these good qualities were tarnished by limited and mistaken views of religious liberty.

Persecuting gentlemen forget the expense of persecution; whereas, of all luxuries, it is the most expensive. The Ranters do not cost us a farthing, because they are not disqualified by ranting. The Methodists and Unitarians are gratis. The Irish Catholics, supposing every alternate year to be war, as it has been for the last century, will cost us, within these next twenty years, forty millions of money. There are 20,000 soldiers there in time of peace; in war, including the militia, their numbers will be doubled—and there must be a very formidable fleet in addition. Now, when the tax paper comes round, and we are to make a return of the greatest number of horses, buggies, ponies, dogs, cats, bullfinches, and canary birds, &c., and to be taxed accordingly, let us remember how well and wisely our money has been spent, and not repine that we have purchased, by severe taxation, the high and exalted pleasures of intolerance and persecution.

It is mere unsupported and unsupportable nonsense to talk of the exclusive disposition of the Catholics to persecute. The Protestants have murdered, and tortured, and laid waste as much as the Catholics. Each party, as it gained the upper hand, tried death as the remedy for heresy—both parties have tried it in vain.

A distinction is set up between civil rights, and political power, and applied against the Catholics: the real difference between these two words is, that civil comes from a Latin

word, and political from a Greek one; but if there is any difference in their meaning, the Catholics do not ask for political power, but for eligibility to political power. The Catholics have never prayed, or dreamt of praying, that so many of the Judges and king's counsel should necessarily be Catholics; but that no law should exist which prevented them from becoming so, if a Protestant king chose to make them so. Eligibility to political power is a civil privilege, of which we have no more right to deprive any man than of any other civil privilege. The good of the state may require that all civil rights may be taken from Catholics; but to say that eligibility to political power is not a civil right, and that to take it away without grave cause, would not be a gross act of injustice, is mere declamation. Besides, what is called political power, and what are called civil rights, are given or withholden, without the least reference to any principle, but by mere caprice. A right of voting is given—this is political power; eligibility to the office of alderman or bank director is refused—this is a civil right: the distinction is perpetually violated, just as it has suited the state of parties for the moment. And here a word or two on the manner of handling the question. Because some offices might be filled with Catholics, all would be: this is one topic. A second is, because there might be inconvenience from a Catholic king or chancellor, that, therefore, there would be inconvenience from Catholic judges or serjeants. In talking of establishments, they always take care to blend the Irish and English establishments, and never to say which is meant, though the circumstances of both are as different as possible. It is always presumed, that sects holding opinions contrary to the establishment, are *hostile* to the establishment; meaning by the word hostile, that they are combined, or ready to combine, for its destruction. It is contended that the Catholics would not be satisfied by these concessions; meaning, thereby, that many would not be so—but forgetting to add, that many *would* be quite satisfied—all *more* satisfied, and less likely to run into rebellion. It is urged that the mass of Catholics are indifferent to the question; whereas (never mind the cause) there is not a Catholic plough-boy, at this moment, who is not ready to risk his life for it, nor a Protestant stable-boy, who does not give himself airs of superiority over any papistical cleaner of horses, who is scrubbing with him under the same roof.

The Irish were quiet under the severe code of Queen Anne—so the half-murdered man left on the ground bleeding by thieves is quiet; and he only moans, and cries for help as he recovers. There was a method which would have made the Irish still more quiet, and effectually have put an end to all further solicitation respecting the Catholic question. It was adopted in the case of the wolves.

They are forming societies in Ireland for the encouragement of emigration, and striving, and successfully striving, to push their redundant population into Great Britain. Our business is to pacify Ireland—to give confidence to capitalists—and to keep their people where they are. On the day the Catholic question was passed, all property in Ireland would rise 20 per cent.

Protestants admit that there are sectaries sitting in Parliament, who differ from the Church of England as much as the Catholics; but it is forgotten that, according to the doctrine of the Church of England, the Unitarians are considered as condemned to eternal punishment in another world—and that many such have seats in Parliament. And can any thing be more preposterous (as far as doctrine has any influence in these matters) than that men, whom we believe to be singled out as objects of God's eternal vengeance, should have a seat in our national councils; and that Catholics, whom we believe may be saved, should not?

The only argument which has any *appearance of weight*, is the question of divided allegiance; and, generally speaking, we should say it is the argument which produces the greatest effect in the country at large. England, in this respect, is in the same state, at least, as the whole of Catholic Europe. Is not the allegiance of every French, every Spanish, and every Italian Catholic (who is not a Roman,) divided? His king is in Paris, or Madrid, or Naples, while his high-priest is at Rome. We speak of it as an anomaly in politics; whereas, it is the state, and condition of almost the whole of Europe. The danger of this divided allegiance, they admit, is nothing, as long as it is confined to purely spiritual concerns; but it may extend itself to temporal matters, and so endanger the safety of the state. This danger, however, is greater in a Catholic than in a Protestant country; not only on account of the greater majority upon whom it might act; but because there are objects in a Catholic country much more desirable,

and attainable, than in a country like England, where Popery does not exist, or Ireland, where it is humbled, and impoverished. Take, for instance, the freedom of the Gallican Church. What eternal disputes did this object give birth to? What a temptation to the Pope to infringe in rich Catholic countries! How is it possible his holiness can keep his hands from picking and stealing? It must not be imagined that Catholicism has been any defence against the hostility and aggression of the Pope: he has cursed and excommunicated every Catholic state in Europe, in their turns. Let that eminent Protestant, Lord Bathurst, state any one instance where, for the last century, the Pope has interfered with the temporal concerns of Great Britain. We can mention, and his lordship will remember, innumerable instances where he might have done so, if such were the modern habit and policy of the court of Rome. But the fact is, there is no court of Rome, and no Pope. There is a wax-work Pope, and a wax-work court of Rome. But popes of flesh and blood have long since disappeared; and in the same way, those great giants of the city exist no more, but their truculent images are at Guildhall. We doubt if there is in the treasury of the Pope change for a guinea—we are sure there is not in his armoury one gun which will go off. We believe, if he attempted to bless any body whom Dr. Doyle cursed, or to curse any body whom Dr. Doyle blessed, that his blessings and curses would be as powerless as his artillery. Dr. Doyle * is the Pope of Ireland; and the ablest ecclesiastic of that country will always be its Pope—and that Lord Bathurst ought to know—most likely does know. But what a waste of life and time, to combat such arguments! Can my Lord Bathurst be ignorant? Can any man, who has the slightest knowlege of Ireland, be ignorant, that the portmanteau which sets out every quarter for Rome, and returns from it, is an heap of ecclesiastical matters, which have no more to do with the safety of the country, than they have to do with the safety of the moon—and which but for the respect to individual feelings,

* 'Of this I can with great truth assure you; and my testimony, if not entitled to respect, should not be utterly disregarded, that papal influence will never induce the Catholics of this country either to continue tranquil, or to be disturbed, either to aid or to oppose the government; and that your lordship can contribute much more than the Pope to secure their allegiance, or to render them disaffected.'—*Dr. Doyle's Letter to Lord Liverpool*, 115.

might all be published at Charing Cross? Mrs. *Flanagan*, intimidated by stomach complaints, wants a dispensation for eating flesh. *Cornelius Oh Bowel* has intermarried by accident with his grandmother; and finding that she is really his grandmother, his conscience is uneasy. *Mr. Mac Tooley*, the priest, is discovered to be married; and to have two sons, *Castor* and *Pollux Mac Tooley*. Three or four schools-full of little boys have been cursed for going to hear a Methodist preacher. Bargains for shirts and toe-nails of deceased saints —surplices and trencher-caps blessed by the Pope. These are the fruits of double allegiance—the objects of our incredible fear, and the cause of our incredible folly. There is not a syllable which goes to or comes from the court of Rome, which, by a judicious expenditure of sixpence by the year, would not be open to the examination of every member of the cabinet. Those who use such arguments know the answer to them as well as we do. The real evil they dread is the destruction of the church of Ireland, and, through that, of the Church of England. To which we reply, that such danger must proceed from the regular proceedings of Parliament, or be effected by insurrection and rebellion. The Catholics, restored to civil functions, would, we believe, be more likely to cling to the church than to Dissenters. If not, both Catholics and Dissenters must be utterly powerless against the overwhelming English interests and feelings in the house. Men are less inclined to run into rebellion, in proportion as they have less to complain of; and, of all other dangers, the greatest to the Irish and English church establishments, and to the Protestant faith throughout Europe, is *to leave Ireland in its present state of discontent.*

If the intention is to wait to the last, before concession is made, till the French or Americans have landed, and the holy standard has been unfurled, we ought to be sure of the terms which can be obtained at such a crisis. This game was played in America. Commissioners were sent in one year to offer and to press what would have been most thankfully received the year before; but they were always too late. The rapid concessions of England were outstripped by the more rapid exactions of the colonies; and the commissioners returned with the melancholy history, that they had humbled themselves before the rebels in vain. If you ever mean to concede at all, do it when every concession will be received as a favour. To

wait till you are forced to treat, is as mean in principle as it is dangerous in effect.

Then, how many thousand Protestant Dissenters are there who pay a double allegiance to the king, and to the head of their church, who is not the king? Is not Mr. William Smith, member for Norwich, the head of the Unitarian Church? Is not Mr. Wilberforce the head of the Clapham Church? Are there not twenty preachers at Leeds, who regulate all the proceedings of the Methodists? The gentlemen we have mentioned are eminent, and most excellent men; but if any thing at all is to be apprehended from this divided allegiance, we should be infinitely more afraid of some Jacobinical fanatic at the head of Protestant votaries—some man of such character as Lord George Gordon—than we should of all the efforts of the Pope.

As so much evil is supposed to proceed from not obeying the king as head of the church, it might be supposed to be a very active office—that the king was perpetually interfering with the affairs of the church—and that orders were in a course of emanation from the throne which regulated the fervour, and arranged the devotion, of all the members of the Church of England. But we really do not know what orders are ever given by the king to the church, except the appointment of a fast-day once in three or four years;—nor can we conceive (for appointment to bishoprics is out of the question) what duties there would be to perform, if this allegiance were paid, instead of being withholden. Supremacy appears to us to be a mere name, without exercise of power—and allegiance to be a duty, without any performance annexed. If any one will say what ought to be done which is not done, on account of this divided allegiance, we shall better understand the magnitude of the evil. Till then, we shall consider it as a lucky Protestant phrase, good to look at, like the mottos and ornaments on cake, but not fit to be eaten.

Nothing can be more unfair than to expect, in an ancient church like that of the Catholics, the same uniformity as in churches which have not existed for more than two or three centuries. The coats and waistcoats of the reign of Henry VIII. bear some resemblance to the same garments of the present day; but, as you recede, you get to the skins of wild beasts, or the fleeces of sheep, for the garments of savages. In the same way, it is extremely difficult for a church, which has

to do with the counsels of barbarous ages, not to be detected in some discrepancy of opinion; while in younger churches, every thing is fair and fresh, and of modern date and figure; and it is not the custom among theologians to own their church in the wrong. 'No religion can stand, if men, without regard to their God, and with regard only to controversy, shall rake out of the rubbish of antiquity the obsolete and quaint follies of the sectarians, and affront the majesty of the Almighty with the impudent catalogue of their devices; and it is a strong argument against the proscriptive system, that it helps to continue this shocking contest. Theologian against theologian, polemic against polemic, until the two madmen defame their common parent, and expose their common religion.'—*Grattan's Speech on the Catholic Question*, 1805.

A good-natured and well-conditioned person has pleasure in keeping and distributing any thing that is good. If he detects any thing with superior flavour, he presses and invites, and is not easy till others participate;—and so it is with political and religious freedom. It is a pleasure to possess it, and a pleasure to communicate it to others. There is something shocking in the greedy, growling, guzzling monopoly of such a blessing.

France is no longer a nation of atheists; and therefore, a great cause of offence to the Irish Roman Catholic clergy is removed. Navigation by steam renders all shores more accessible. The union among Catholics is consolidated; all the dangers of Ireland are redoubled; every thing seems tending to an event fatal to England—fatal (whatever Catholics may foolishly imagine) to Ireland—and which will subject them both to the dominion of France.

Formerly a poor man might be removed from a parish if there was the slightest danger of his becoming chargeable; a hole in his coat or breeches excited suspicion. The churchwardens said, 'He *has* cost us nothing, but he *may* cost us something; and we must not live even in the apprehension of evil.' All this is changed; and the law now says, 'Wait till you are hurt; time enough to meet the evil when it comes; you have no right to do a certain evil to others, to prevent an uncertain evil to yourselves.' The Catholics, however, are told that what they *do* ask is objected to, from the fear of what they *may* ask; that they must do without that which is *reasonable*, for fear they should ask what is *unreasonable*. 'I

would give you a penny (says the miser to the beggar), if I was quite sure you would not ask me for half a crown.'

'Nothing, I am told, is now so common on the continent as to hear our Irish policy discussed. Till of late the extent of the disabilities was but little understood, and less regarded, partly because, having less liberty themselves, foreigners could not appreciate the deprivations, and partly because the pre-eminence of England was not so decided as to draw the eyes of the world on all parts of our system. It was scarcely credited that England, that knight-errant abroad, should play the exclusionist at home; that every where else she should declaim against oppression, but contemplate it without emotion at her doors. That her armies should march, and her orators philippize, and her poets sing against continental tyranny, and yet that laws should remain extant, and principles be operative within our gates, which are a bitter satire on our philanthropy, and a melancholy negation of our professions. Our sentiments have been so lofty, our deportment to foreigners so haughty, we have set up such liberty and such morals, that no one could suppose that we were hypocrites. Still less could it be foreseen that a great moralist, called Joseph Surface, kept a "little milliner" behind the scenes, we too should be found out at length in taking the diversion of private tyranny after the most approved models for that amusement.'—*Letter to Lord Milton*, pp. 50, 51.

We sincerely hope—we firmly believe—it never will happen; but if it were to happen, why cannot England be just as happy with Ireland being Catholic, as it is with Scotland being Presbyterian? Has not the Church of England lived side by side with the Kirk, without crossing or jostling, for these last hundred years? Have the Presbyterian members entered into any conspiracy for mincing bishoprics and deaneries into synods and presbyteries? And is not the Church of England tenfold more rich and more strong than when the separation took place? But however this may be, the real danger, even to the church of Ireland, as we have before often remarked, is the refusal of Catholic emancipation.

It would seem, from the frenzy of many worthy Protestants, whenever the name of Catholic is mentioned, that the greatest possible diversity of religious opinions existed between the Catholic and the Protestant—that they were as different as fish and flesh—as alkali and acid—as cow and cart-horse; whereas it is quite clear, that there are many Protestant sects whose difference from each other is much more marked, both in church discipline and in tenets of faith, than that of Protestants and Catholics. We maintain that Lambeth, in these two

points, is quite as near to the Vatican as it is to the Kirk—if not much nearer.

Instead of lamenting the power of the priests over the lower orders of the Irish, we ought to congratulate ourselves that any influence can affect or control them. Is the tiger less formidable in the forest than when he has been caught and taught to obey a voice, and tremble at an hand? But we over-rate the power of the priest, if we suppose that the upper orders are to encounter all the dangers of treason and rebellion, to confer the revenues of the Protestant church upon the Catholic clergy. If the influence of the Catholic clergy upon men of rank and education is so unbounded, why cannot the French and Italian clergy recover their possessions, or acquire an equivalent for them? They are starving in the full enjoyment of an influence which places (as we think) all the wealth and power of the country at their feet—an influence which, in our opinion, overpowers avarice, fear, ambition, and is the master of every passion which brings on change and movement in the Protestant world.

We conclude with a few words of advice to the different opponents of the Catholic question.

To the No-Popery Fool.

You are made use of by men who laugh at you, and despise you for your folly and ignorance; and who, the moment it suits their purpose, will consent to emancipation of the Catholics, and leave you to roar and bellow No Popery! to vacancy and the moon.

To the No-Popery Rogue.

A shameful and scandalous game, to sport with the serious interests of the country, in order to gain some increase of public power!

To the Honest No-Popery People.

We respect you very sincerely—but are astonished at your existence.

To the Base.

Sweet children of turpitude, beware! the old anti-popery people are fast perishing away. Take heed that you are not surprised by an emancipating king, or an emancipating admin-

istration. Leave a *locus pœnitentiæ!*—prepare a place for retreat—get ready your equivocations and denials. The dreadful day may yet come, when liberality may lead to place and power. We understand these matters here. It is the safest to be moderately base—to be flexible in shame, and to be always ready for what is generous, good, and just, when any thing is to be gained by virtue.

To the Catholics.

Wait. Do not add to your miseries by a mad and desperate rebellion. Persevere in civil exertions, and concede all you can concede. All great alterations in human affairs are produced by compromise.

NECKAR'S LAST VIEWS. (Edinburgh Review, 1803.)

Dernières Vues de Politiques, et de Finance. Par. M. Neckar. An 10, 1802.

If power could be measured by territory, or counted by population, the inveteracy, and the disproportion which exists between France and England, must occasion to every friend of the latter country the most serious and well-founded apprehensions. Fortunately however for us, the question of power is not only what is the amount of population? but, how is that population governed? How far is a confidence in the *stability* of political institutions established by an experience of their *wisdom?* Are the various interests of society adjusted and protected by a system of laws thoroughly tried, gradually ameliorated, and purely administered? What is the degree of general prosperity evinced by that most perfect of all *criteria*, general credit? These are the considerations to which an enlightened politician, who speculates on the future destiny of nations, will direct his attention, more than to the august and imposing exterior of territorial dominion, or to those brilliant moments, when a nation, under the influence of great passions, rises above its neighbours, and above itself, in military renown.

If it be visionary to suppose the grandeur and safety of the two nations as compatible and co-existent, we have the important (though the cruel) consolation of reflecting, that the French have yet to put together the very elements of a civil and political constitution; that they have to experience all the danger and all the inconvenience which result from the rashness and the imperfect views of legislators, who have every thing to conjecture, and every thing to create; that they must submit to the confusion of repeated change, or the greater evil of obstinate perseverance in error; that they must live for a century in that state of perilous uncertainty in which every revolutionized nation remains, before rational liberty becomes feeling and habit, as well as law, and is written in the hearts of men as plainly as in the letter of the statute; and that the opportunity of begin-

ning this immense edifice of human happiness is so far from being presented to them at present, that it is extremely problematical whether or not they are to be bandied from one vulgar usurper to another, and remain for a century subjugated to the rigour of a military government, at once the scorn and the scourge of Europe.*

To the more pleasing supposition, that the First Consul will make use of his power to give his country a free constitution, we are indebted for the work of M. Neckar now before us, a work of which good temper is the characteristic excellence: it every where preserves that cool impartiality which it is so difficult to retain in the discussion of subjects connected with recent and important events; modestly proposes the results of reflection; and, neither deceived nor wearied by theories, examines the best of all that mankind have said or done for the attainment of rational liberty.

The principal object of M. Neckar's book is to examine this question, 'An opportunity of election supposed, and her present circumstances considered—what is the best form of government which France is capable of receiving?' and he answers his own query, by giving the preference to a Republic One and Indivisible.

The work is divided into four parts.

1. An Examination of the present constitution of France.
2. On the best form of a Republic One and Indivisible
3. On the best form of a Monarchical Government.
4. Thoughts upon Finance.

From the misfortune which has hitherto attended all discussions of *present* constitutions in France, M. Neckar has not escaped. The subject has proved too rapid for the author; and its existence has ceased before its properties were examined. This part of the work, therefore, we shall entirely pass over: because, to discuss a mere name, is an idle waste of time; and no man pretends that the present constitution of France can, with propriety, be considered as any thing more. We shall proceed to a description of that form of a republican government which appears to M. Neckar best calculated to promote the happiness of that country.

Every department is to be divided into five parts, each of

* All this is, unfortunately, as true now as it was when written thirty years ago.

which is to send one member. Upon the eve of an election, all persons paying 200 livres of government taxes in direct contribution, are to assemble together, and choose 100 members from their own number, who form what M. Neckar calls a chamber of indication. This chamber of indication is to present five candidates, of whom the people are to elect one; and the right of voting in this latter election is given to every body engaged in a wholesale or retail business; to all superintendents of manufactures and trades; to all commissioned and non-commissioned officers and soldiers who have received their discharge; and to all citizens paying, in direct contribution, to the amount of twelve livres. Votes are not to be given in one spot, but before the chief magistrate of each *commune* where the voter resides, and there inserted in registers; from a comparison of which, the successful candidate is to be determined. The municipal officers are to enjoy the right of *recommending* one of these candidates to the people, who are free to adopt their recommendation or not, as they may think proper. The right of voting is confined to qualified single men of twenty-five years of age: married men of the same description may vote at any age.

To this plan of election we cannot help thinking there are many great and insuperable objections. The first and infallible consequence of it would be, a devolution of the whole elective franchise upon the chamber of indication, and a complete exclusion of the people from any share in the privilege: for the chamber bound to return five candidates, would take care to return four out of the five so thoroughly objectionable, that the people would be compelled to choose the fifth. Such has been the constant effect of all elections so constituted in Great Britian, where the power of conferring the office has always been found to be vested in those who named the candidates, not in those who selected an individual from the candidates named.

But if such were not the consequences of a double election; and if it were so well constituted, as to retain that character which the legislature meant to impress upon it, there are other reasons which would induce us to pronounce it a very pernicious institution. The only foundation of political liberty is the spirit of the people; and the only circumstance which makes a lively impression upon their senses, and powerfully reminds them of their importance, their power, and their rights,

is the periodical choice of their representatives. How easily that spirit may be totally extinguished, and of the degree of abject fear and slavery to which the human race may be reduced for ages, every man of reflection is sufficiently aware: and he knows that the preservation of that feeling is, of all other objects of political science, the most delicate and the most difficult. It appears to us, that a people who did not choose their representatives, but only those who chose their representatives, would very soon become indifferent to their elections altogether. To deprive them of their power of nominating their own candidate, would be still worse. The eagerness of the people to vote, is kept alive by their occasional expulsion of a candidate who has rendered himself objectionable, or the adoption of one who knows how to render himself agreeable to them. They are proud of being solicited *personally* by a man of family or wealth. The uproar even, and the confusion and the clamour of a popular election in England, have their use: they give a stamp to the names, *Liberty*, *Constitution*, and *People:* they infuse sentiments which nothing but violent passions and gross objects of sense *could* infuse; and which would never exist, perhaps, if the sober constituents were to sneak, one by one, into a notary's office to deliver their votes for a representative, or were to form the first link in that long chain of causes and effects, which, in this compound kind of elections, ends with choosing a member of parliament.

'Above all things (says M. Neckar) languor is the most deadly to a republican government; for when such a political association is animated neither by a kind of instinctive affection for its beauty, nor by the continual homage of reflection to the happy union of order and liberty, the public spirit is half lost, and with it the republic. The rapid brilliancy of despotism is preferred to a mere complicated machine, from which every symptom of life and organization is fled.'

Sickness, absence, and nonage, would (even under the supposition of universal suffrage) reduce the voters of any country to one fourth of its population. A qualification much lower than that of the payment of twelve livres in direct contribution, would reduce that fourth one half, and leave the number of voters in France three millions and a half, which, divided by 600, gives between five and six thousand constituents for each representative; a number not amounting to a third part of the voters for many counties in England, and which certainly is

not so unwieldy as to make it necessary to have recourse to the complex mechanism of double elections. Besides, too, if it could be believed that the peril were considerable, of gathering men together in such masses, we have no hesitation in saying, that it would be infinitely preferable to thin their numbers, by increasing the value of the qualification, than to obviate the apprehended bad effects, by complicating the system of election.

M. Neckar (much as he has seen and observed) is clearly deficient in that kind of experience which is gained by living under free governments: he mistakes the riots of a free, for the insurrections of an enslaved people; and appears to be impressed with the most tremendous notions of an English election. The difference is, that the tranquillity of an arbitrary government is rarely disturbed, but from the most serious provocations, not to be expiated by any ordinary vengeance. The excesses of a free people are less important, because their resentments are less serious; and they can commit a great deal of apparent disorder with very little real mischief. An English mob, which, to a foreigner, might convey the belief of an impending massacre, is often contented by the demolition of a few windows.

The idea of diminishing the number of constituents, rather by extending the period of nonage to twenty-five years, than by increasing the value of the qualification, appears to us to be new and ingenious. No person considers himself as so completely deprived of a share in the government, who is to enjoy it when he becomes older, as he would do, were that privilege deferred till he became richer;—time comes to all, wealth to few.

This assembly of representatives, as M. Neckar has constituted it, appears to us to be in extreme danger of turning out to be a mere collection of country gentlemen. Every thing is determined by territorial extent and population; and as the voters in towns must, in any single division, be almost always inferior to the country voters, the candidates will be returned in virtue of large landed property; and that infinite advantage which is derived to a popular assembly, from the *variety* of characters of which it is composed, would be entirely lost under the system of M. Neckar. The sea-ports, the universities, the great commercial towns, should all have their separate organs in the parliament of a great country.

There should be some means of bringing in active, able, young men, who would submit to the labour of business, from the stimulus of honour and wealth. Others should be there, expressly to speak the sentiments, and defend the interests of the executive. Every popular assembly must be grossly imperfect, that is not composed of such heterogeneous materials as these. Our own parliament may perhaps contain within itself *too many* of that species of representatives, who could never have arrived at the dignity under a pure and perfect system of election; but, for all the practical purposes of government, amidst a great majority fairly elected by the people, we should always wish to see a certain number of the legislative body representing interests very distinct from those of the people.

The legislative part of his constitution M. Neckar manages in the following manner. There are two councils, the great and the little. The great council is composed of five members from each department, elected in the manner we have just described, and amounting to the number of six hundred. The assembly is re-elected every five years. No qualification* of property is necessary to its members, who receive each a salary of 12,000 livres. No one is eligible to the assembly before the age of twenty-five years. The little national council consists of one hundred members, or from that number to one hundred and twenty; one for each department. It is re-elected every ten years; its members must be thirty years of age; and they receive the same salary as the members of the great council. For the election of the little council, each of the five chambers of indication, in every department, gives in the name of one candidate; and, from the five so named, the same voters who choose the great council select one.

The municipal officers enjoy, in this election, the same right of *recommending* one of the candidates to the people; a privilege which they would certainly exercise indirectly, without a law, wherever they could exercise it with any effect, and the influence of which the sanction of the law would at all times rather diminish than increase.

The grand national council commences all deliberations which concern public order, and the interest of the state, with

* Nothing can be more absurd than our qualification for parliament: it is nothing but a foolish and expensive lie on parchment.

the exception of those only which belong to finance. Nevertheless, the executive and the little council have it in their power to *propose* any law for the consideration of the grand council. When a law has passed the two councils, and received the sanction of the executive senate, it becomes binding upon the people. If the executive senate disapprove of any law presented to them for their adoption, they are to send it back to the two councils for their reconsideration; but if it pass these two bodies again, with the approbation of two-thirds of the members of each assembly, the executive has no longer the power of withholding its assent. All measures of finance are to initiate with government.

We believe M. Neckar to be right in his idea of not exacting any qualification of property in his legislative assemblies. When men are left to choose their own governors, they are guided in their choice by some one of those motives which has always commanded their homage and admiration:—if they do not choose wealth, they choose birth or talents, or military fame; and of all these species of pre-eminence, a large popular assembly should be constituted. In England, the laws, requiring that members of parliament should be possessed of certain property, are (except in the instance of members for counties) *practically* repealed.

In the salaries of the members of the two councils, with the exception of the expense, there is, perhaps, no great balance of good or harm. To some men it would be an inducement to become senators; to others, induced by more honourable motives, it would afford the means of supporting that situation without disgrace. Twenty-five years of age is certainly too late a period for the members of the great council. Of what astonishing displays of eloquence and talent should we have been deprived in this country under the adoption of a similar rule!

The institution of two assemblies constitutes a check upon the passion and precipitation by which the resolutions of any single popular assembly may occasionally be governed. The chances, that one will correct the other, do not depend solely upon their dividuality, but upon the different ingredients of which they are composed, and that difference of system and spirit, which results from a difference of conformation. Perhaps M. Neckar has not sufficiently attended to this consideration. The difference between his two assemblies is not very

material; and the same popular fury which marked the proceedings of the one, would not be very sure of meeting with an adequate corrective in the dignified coolness and wholesome gravity of the other.

All power which is tacitly allowed to devolve upon the executive part of a government, from the experience that it is most conveniently placed there, is both safer, and less likely to be complained of, than that which is conferred upon it by law. If M. Neckar had placed some agents of the executive in the great council, all measures of finance would, *in fact*, have originated in them, without any exclusive right to such initiation; but the *right* of initiation, from M. Neckar's contrivance, is likely to excite that discontent in the people, which alone can render it dangerous and objectionable.

In this plan of a republic, every thing seems to depend upon the purity and the moderation of its governors. The executive has no connection with the great council; the members of the great council have no motive of hope, or interest, to consult the wishes of the executive. The assembly, which is to give example to the nation, and enjoy its confidence, is composed of six hundred men, whose passions have no other control than that pure love of the public, which it is *hoped* they may possess, and that cool investigation of interests, which it is *hoped* they may pursue.

Of the effects of such a constitution, every thing must be conjectured; for experience enables us to make no assertion respecting it. There is only one government in the modern world, which, from the effects it has produced, and the time it has endured, can with justice be called good and free. Its constitution, in books, contains the description of a legislative assembly, similar to that of M. Neckar's. Happily, perhaps, for the people, the share they have *really* enjoyed in its election, is much less ample than that allotted to them in this republic of the closet. How long a really popular assembly would tolerate any rival and co-existing power in the state—for what period the feeble executive, and the untitled, unblazoned peers of a republic, could stand against it—whether any institutions, compatible with the essence and meaning of a republic, could prevent it from absorbing all the dignity, the popularity, and the power of the state,—are questions that

we leave for the resolution of wiser heads; with the sincerest joy, that we have only a theoretical interest in stating them.*

The executive senate is to consist of seven; and the right of presenting the candidates, and selecting *from* the candidates alternately from one assembly to the other, *i. e.* on a vacancy, the great council present three candidates to the little council, who select one from that number; and, on the next vacancy, by the inversion of this process, the little council present, and the great council select; and so alternately. The members of the executive must be thirty-five years of age. Their measures are determined by a majority. The president, called the Consul, has a casting vote: his salary is fixed at 300,000 livres; that of all the other senators at 60,000 livres. The office of consul is annual. Every senator enjoys it in his turn. Every year one senator goes out, unless re-elected; which he may be once, and even twice, if he unites three-fourths of the votes of each council in his favour. The executive shall name to all civil and military offices, except to those of mayors and municipalities. Political negotiations, and connections with foreign countries, fall under the direction of the executive. Declarations of war or peace, when presented by the executive to the legislative body, are to be adopted, the first by a majority of three-fifths, the last by a simple majority. The parade, honours, and ceremonies of the executive, devolve upon the consul alone. The members of the senate, upon going out of office, become members of the little council, to the number of seven. Upon the vacation of an eighth senator, the oldest ex-senator in the little council resigns his seat to make room for him. All responsibility rests upon the consul alone, who has a right to stop the proceedings of a majority of the executive senate, by declaring them unconstitutional; and if the majority persevere, in spite of this declaration, the dispute is referred to and decided by a secret committee of the little council.

M. Neckar takes along with him the same mistake through the whole of his constitution, by conferring the choice of candidates on one body, and the election of the member on another: so that though the alternation would take place between the two councils, it would turn out to be in an order directly opposite to that which was intended.

We perfectly acquiesce in the reasons M. Neckar has al-

* That interest is at present not quite so theoretical as it was.

leged for the preference given to an executive constituted of many individuals, rather than of one. The prize of supreme power is too tempting to admit of fair play in the game of ambition; and it is wise to lessen its value by dividing it: at least it is wise to do so under a form of government that cannot admit the better expedient of rendering the executive hereditary; an expedient (gross and absurd as it seems to be) the best calculated, perhaps, to obviate the effects of ambition upon the stability of governments, by narrowing the field on which it acts, and the object for which it contends. The Americans have determined otherwise, and adopted an elective presidency: but there are innumerable circumstances, as M. Neckar very justly observes, which render the example of America inapplicable to other governments. America is a federative republic, and the extensive jurisdiction of the individual States exonerates the president from so great a portion of the cares of domestic government, that he may almost be considered as a mere minister of foreign affairs. America presents such an immediate, and such a seducing species of provision to all its inhabitants, that it has no idle discontented populace; its population amounts only to six millions, and it is not condensed in such masses as the population of Europe. After all, an experiment of twenty years is never to be cited in politics; nothing can be built upon such a slender inference. Even if America were to remain stationary, she might find that she had presented too fascinating and irresistible an object to human ambition: of course, that peril is increased by every augmentation of a people, who are hastening on, with rapid and irresistible pace, to the highest eminences of human grandeur. Some contest for power there must be in every free state: but the contest for vicarial and deputed power, as it implies the presence of a moderator and a master, is more prudent than the struggle for that which is original and supreme.

The difficulty of reconciling the responsibility of the executive with its dignity, M. Neckar foresees; and states, but does not remedy. An irresponsible executive, the jealousy of a republic would never tolerate; and its amenability to punishment, by degrading it in the eyes of the people, diminishes its power.

All the leading features of *civil liberty* are copied from the constitution of this country, with hardly any variation.

Having thus finished his project of a republic, M. Neckar

proposes the government of this country as the best model of a temperate and hereditary monarchy; pointing out such alterations in it as the genius of the French people, the particular circumstances in which they are placed, or the abuses which have crept into our policy, may require. From one or the other of these motives he re-establishes the salique law;* forms his elections after the same manner as that previously described in his scheme of a republic; and excludes the clergy from the house of peers. This latter assembly M. Neckar composes of 250 hereditary peers chosen from the best families in France, and of 50 assistant peers enjoying that dignity for life only, and nominated by the crown. The number of hereditary peers is limited as above; the peerage goes only in the male line; and upon each peer is perpetually entailed landed property to the amount of 30,000 livres. This partial creation of peers for life only, appears to remedy a very material defect in the English constitution. An hereditary legislative aristocracy not only adds to the dignity of the throne, and establishes that gradation of ranks which is, perhaps, absolutely necessary to its security, but it transacts a considerable share of the business of the nation, as well in the framing of laws as in the discharge of its juridical functions. But men of rank and wealth, though they are interested by a splendid debate, will not submit to the drudgery of business, much less can they be supposed conversant in all the niceties of law questions. It is therefore necessary to add to their number a certain portion of *novi homines*, men of established character for talents, and upon whom the previous tenour of their lives has necessarily impressed the habits of business. The evil of this is, that the title descends to their posterity, without the talents and the utility that procured it; and the dignity of the peerage is impaired by the increase of its numbers: not only so, but as the peerage is the reward of military, as well as the earnest of civil services, and as the annuity commonly granted with it is only for one or two lives, we are in some danger of seeing a race of nobles wholly dependent upon the crown for their support, and sacrificing their political freedom to their necessities. These evils are effectually, as it should seem, obviated by the creation of

*A most sensible and valuable law, banishing gallantry and chivalry from cabinets, and preventing the amiable antics of grave statesmen.

a *certain** *number* of peers for life only; and the increase of power which it seems to give to the Crown, is very fairly counteracted by the exclusion of the episcopacy, and the limitation of the hereditary peerage. As the weight of business in the upper house would principally devolve upon the created peers, and as they would hardly arrive at that dignity without having previously acquired great civil or military reputation, the consideration they would enjoy would be little inferior to that of the other part of the aristocracy. When the *noblesse* of nature are fairly opposed to the *noblesse* created by political institutions, there is little fear that the former should suffer by the comparison.

If the clergy are suffered to sit in the lower house, the exclusion of the episcopacy from the upper house is of less importance: but, in some part of the legislative bodies, the interests of the church ought unquestionably to be represented. This consideration M. Neckar wholly passes over.†

Though this gentleman considers an hereditary monarchy as preferable in the abstract, he deems it impossible that such a government could be established in France, under her present circumstances, from the impracticability of establishing with it an hereditary aristocracy; because the property, and the force of opinion, which constituted their real power, are no more, and cannot be restored. Though we entirely agree with M. Neckar, that an hereditary aristocracy is a *necessary* part of temperate monarchy, and that the latter must exist upon the base of the former, or not at all—we are by no means converts to the very decided opinion he has expressed of the impossibility of restoring them both to France.

We are surprised that M. Neckar should attempt to build any strong argument upon the durability of opinions in nations that are about to undergo, or that have recently undergone, great political changes. What opinion was there in favour of

* The most useless and offensive tumour in the body politic, is the titled son of a great man whose merit has placed him in the peerage. The name, face, and perhaps the pension, remain. The dæmon is gone; or there is a slight flavour from the cask, but it is empty.

† The parochial clergy are as much unrepresented in the English Parliament as they are in the Parliament of Brobdignag. The bishops make just what laws they please, and the bearing they may have on the happiness of the clergy at large never for one moment comes into the serious consideration of Parliament.

a republic in 1780? Or against it in 1794? Or, what opinion is there now in favour of it in 1802? Is not the tide of opinions, at this moment, in France, setting back with a strength equal to its flow? and is there not reason to presume, that, for some time to come, their ancient institutions may be adored with as much fury as they were destroyed? If opinion can revive in favour of kings (and M. Neckar allows it may,) why not in favour of nobles? It is true their property is in the hands of other persons; and the whole of that species of proprietors will exert themselves to the utmost to prevent a restoration so pernicious to their interests. The obstacle is certainly of a very formidable nature. But why this weight of property, so weak a weapon of defence to its *ancient*, should be deemed so irresistible in the hands of its *present* possessors, we are at a loss to conceive; unless, indeed, it be supposed, that antiquity of possession diminishes the sense of right and the vigour of retention; and that men will struggle harder to keep what they have acquired only yesterday, than that which they have possessed, by themselves or their ancestors, for six centuries.

In France, the inferiority of the price of revolutionary lands to others, is immense. Of the former species, church land is considerably dearer than the forfeited estates of emigrants. Whence the difference of price, but from the estimated difference of security? Can any fact display more strongly the state of public opinion with regard to the probability of a future restoration of these estates, either partial or total? and can any circumstance facilitate the execution of such a project more than the general belief that it will be executed? M. Neckar allows, that the impediments to the formation of a republic are very serious; but thinks they would all yield to the talents and activity of Buonaparte, if he were to dedicate himself to the superintendence of such a government during the period of its infancy: of course, therefore, he is to suppose the same power dedicated to the formation of an hereditary monarchy: or his parallel of difficulties is unjust, and his preference irrational. Buonaparte could represent the person of a monarch, during his life, as well as he could represent the executive of a republic; and if he could overcome the turbulence of electors, to whom freedom was new, he could appease the jealousy that his generals would entertain of the returning nobles. Indeed, without such powerful intervention, this latter objection does not appear to us to

be by any means insuperable. If the history of our own restoration were to be acted over again in France, and royalty and aristocracy brought back by the military successor of Buonaparte, it certainly could not be done without a very liberal distribution of favours among the great leaders of the army.

Jealousy of the executive is one feature of a republic; in consequence, that government is clogged with a multiplicity of safeguards and restrictions, which render it unfit for investigating complicated details, and managing extensive relations with vigour, consistency, and despatch. A republic, therefore, is better fitted for a little state than a large one.

A love of equality is another very strong principle in a republic; therefore it does not tolerate hereditary honour or wealth; and all the effect produced upon the minds of the people by this factitious power is lost, and the government weakened: but, in proportion as the government is less able to command, the people should be more willing to obey; therefore a republic is better suited to a moral than an immoral people.

A people who have *recently* experienced great evils from the privileged orders and from monarchs, love republican forms so much, that the warmth of their inclination supplies, in some degree, the defect of their institutions. *Immediately*, therefore, upon the destruction of despotism, a republic *may be* preferable to a limited monarchy.

And yet, though narrowness of territory, purity of morals, and recent escape from despotism, appear to be the circumstances which most strongly recommend a republic, M. Neckar proposes it to the most numerous and the most profligate people in Europe, who are disgusted with the very name of liberty, from the incredible evils they have suffered in pursuit of it.

Whatever be the species of free government adopted by France, she can adopt none without the greatest peril. The miserable dilemma in which men living under bad governments are placed, is, that, without a radical revolution, they may never be able to gain liberty at all; and, with it, the attainment of liberty appears to be attended with almost insuperable difficulties. To call upon a nation, on a sudden, totally destitute of such knowledge and experience, to perform all the manifold functions of a free constitution, is to entrust valuable, delicate, and abstruse mechanism, to the rudest skill and the grossest

ignorance. Public acts may confer liberty; but experience only can teach a people to use it; and, till they have gained that experience, they are liable to tumult, to jealousy, to collision of powers, and to every evil to which men are exposed, who are desirous of preserving a great good, without knowing how to set about it. In an old established system of liberty, like our own, the encroachments which one department of the state makes on any other, are slow, and hardly intentional; the political feelings and the constitutional knowledge which every Englishman possesses, create a public voice, which tends to secure the tranquillity of the whole. Amid the crude sentiments and new-born precedents of sudden liberty, the crown might destroy the Commons, or the Commons the crown, almost before the people had formed any opinion of the nature of their contention. A nation grown free in a single day, is a child born with the limbs and the vigour of a man, who would take a drawn sword for his rattle, and set the house in a blaze, that he might chuckle over the splendour.

Why can factious eloquence produce such limited effects in this country? Partly because we are accustomed to it, and know how to appreciate it. We are acquainted with popular assemblies; and the language of our Parliament produces the effect it ought upon public opinion, because long experience enables us to conjecture the real motives by which men are actuated; to separate the vehemence of party spirit from the language of principle and truth; and to discover whom we can trust, and whom we cannot. The want of all this, and of much more than this, must retard, for a very long period, the practical enjoyment of liberty in France, and present very serious obstacles to her prosperity; obstacles little dreamed of by men who seem to measure the happiness and future grandeur of France by degrees of longitude and latitude, and who believe she might acquire liberty with as much facility as she could acquire Switzerland or Naples.

M. Neckar's observations on the finances of France, and on finance in general, are useful, entertaining, and not above the capacity of every reader. France, he says, at the beginning of 1781, had 438 millions of revenue; and, at present, 540 millions. The state paid, in 1781, about 215 millions in pensions, the interest of perpetual debts, and debts for life. It pays, at present, 80 millions in interests and pensions; and owes about 12 millions for anticipations on the public revenue.

A considerable share of the increase of the revenue is raised upon the conquered countries; and the people are liberated from tithes, corvées, and the tax on salt. This, certainly, is a magnificent picture of finance. The best informed people at Paris, who would be very glad to consider it as a copy from life, dare not contend that it is so. At least, we sincerely ask pardon of M. Neckar, if our information as to this point be not correct: but we believe he is generally considered to have been misled by the public financial reports.

In addition to the obvious causes which keep the interest of money so high in France, M. Neckar states one which we shall present to our readers:—

'There is one means for the establishment of credit,' he says, 'equally important with the others which I have stated—a sentiment of respect for morals, sufficiently diffused to overawe the government, and intimidate it from treating with bad faith any solemn engagements contracted in the name of the state. *It is this respect for morals which seems at present to have disappeared;* a respect which the Revolution has destroyed, and which is unquestionably one of the firmest supports of national faith.'

The terrorists of this country are so extremely alarmed at the power of Buonaparte, that they ascribe to him resources which M. Neckar very justly observes to be incompatible—despotism and credit. Now, clearly, if he is so omnipotent in France as he is represented to be, there is an end of all credit; for nobody will trust *him* whom nobody can compel to pay; and if he establishes a credit, he loses all that temporary vigour which is derived from a revolutionary government. Either the despotism or the credit of France directed against this country would be highly formidable; but, both together, can never be directed at the same time.

In this part of his work, M. Neckar very justly points out one of the most capital defects of Mr. Pitt's administration; who always supposed that the power of France was to cease with her credit, and measured the period of her existence by the depreciation of her assignats. Whereas, France was never more powerful than when she was totally unable to borrow a single shilling in the whole circumference of Europe, and when her assignats were not worth the paper on which they were stamped.

Such are the principal contents of M. Neckar's very respectable work. Whether, in the course of that work, his political

notions appear to be derived from a successful study of the passions of mankind, and whether his plan for the establishment of a republican government in France, for the ninth or tenth time, evinces a more sanguine, or a more sagacious mind, than the rest of the world, we would rather our readers should decide for themselves, than expose ourselves to any imputation of arrogance, by deciding for them. But when we consider the pacific and impartial disposition which characterizes the *Last Views on Politics and Finance*, the serene benevolence which it always displays, and the pure morals which it always inculcates, we cannot help entertaining a high respect for its venerable author, and feeling a fervent wish, that the last views of every public man may proceed from a heart as upright, and be directed to objects as good.

CATTEAU, TABLEAU DES ETATS DANOIS.

(Edinburgh Review, 1803.)

Tableaux des Etats Danois. Par Jean Pierre Catteau. 3 tomes. 1802. à Paris.

The object of this book is to exhibit a picture of the kingdom of Denmark, under all its social relations, of politics, statistics, science, morals, manners, and every thing which can influence its character and importance, as a free and independent collection of human beings.

This book is, upon the whole, executed with great diligence and good sense. Some subjects of importance are passed over, indeed, with too much haste; but if the publication had exceeded its present magnitude, it would soon have degenerated into a mere book of reference, impossible to be read, and fit only, like a dictionary, for the purposes of occasional appeal: It would not have been a picture presenting us with an interesting epitome of the whole; but a typographical plan, detailing with minute and fatiguing precision, every trifling circumstance, and every subordinate feature. We should be far from objecting to a much more extended and elaborate performance than the present; because those who read, and those who write, are now so numerous, that there is room enough for varieties and modifications of the same subject: but information of this nature, conveyed in a form and in a size adapted to continuous reading, gains in surface what it loses in depth,—and gives general notions to many, though it cannot afford all the knowledge which a few have it in their power to acquire, from the habits of more patient labour, and more profound research.

This work, though written at a period when enthusiasm or disgust had thrown most men's minds off their balance, is remarkable, upon the whole, for sobriety and moderation. The observations, though seldom either strikingly ingenious or profound, are just, temperate, and always benevolent. We are so far from perceiving any thing like extravagance in Mr. Catteau, that we are inclined to think he is occasionally too cautious for

the interests of truth; that he manages the court of Denmark with too much delicacy; and exposes, by distant and scarcely perceptible touches, that which it was his duty to have brought out boldly and strongly. The most disagreeable circumstance in the style of the book is, the author's compliance with that irresistible avidity of his country to declaim upon common-place subjects. He goes on, mingling bucolic details and sentimental effusions, melting and measuring, crying and calculating, in a manner which is very bad, if it is poetry, and worse if it is prose. In speaking of the mode of cultivating potatoes, he cannot avoid calling the potato *a modest vegetable:* and when he comes to the exportation of horses from the duchy of Holsten, we learn that 'these animals are dragged from the bosom of their peaceable and modest country, to hear, in foreign regions, the sound of the warlike trumpet; to carry the combatant amid the hostile ranks; to increase the éclat of some pompous procession; or drag, in gilded car, some favourite of fortune.'

We are sorry to be compelled to notice these untimely effusions, especially as they may lead to a suspicion of the fidelity of the work; of which fidelity, from actual examination of many of the authorities referred to, we have not the most remote doubt. Mr. Catteau is to be depended upon as securely as any writer, going over such various and extensive ground, can ever be depended upon. He is occasionally guilty of some trifling inaccuracies; but what he advances is commonly derived from the most indisputable authorities; and he has condensed together a mass of information, which will render his book the most accessible and valuable road of knowledge, to those who are desirous of making any researches respecting the kingdom of Denmark.

Denmark, since the days of piracy, has hardly been heard of out of the Baltic. Margaret, by the union of Calmar, laid the foundation of a monarchy, which (could it have been preserved by hands as strong as those which created it) would have exercised a powerful influence upon the destinies of Europe, and have strangled, perhaps, in the cradle, the infant force of Russia. Denmark, reduced to her ancient bounds by the patriotism and talents of Gustavus Vasa, has never since been able to emerge into notice by her own natural resources, or the genius of her ministers and her monarchs. During that period, Sweden has more than once threatened to give laws to

Europe; and, headed by Charles and Gustavus, has broke out into chivalrous enterprises, with an heroic valour, which merited wiser objects, and greater ultimate success. The spirit of the Danish nation has, for the last two or three centuries, been as little carried to literature or to science, as to war. They have written as little as they have done. With the exception of Tycho Brahé and a volume of shells, there is hardly a Danish book, or a Danish writer, known five miles from the Great Belt. It is not sufficient to say, that there are many authors read and admired in Denmark: there are none that have passed the Sound, none that have had energy enough to force themselves into the circulation of Europe, to extort universal admiration, and live, without the aid of municipal praise, and local approbation. From the period, however, of the first of the Bernstorffs, Denmark has made a great spring, and has advanced more within the last twenty or thirty years, than for the three preceding centuries. The peasants are now emancipated; the laws of commerce, foreign and interior, are simplified and expanded; the transport of corn and cattle is made free; a considerable degree of liberty is granted to the press; and slavery is to cease this very year in their West Indian possessions. If Ernest Bernstorff was the author of some less considerable measures, they are to be attributed more to the times, than to the defects of his understanding, or of his heart. To this great minister succeeded the favourite Struensee, and to him Ove Guildberg: the first, with views of improvements, not destitute of liberality or genius, but little guided by judgment, or marked by moderation; the latter, devoid of that energy and firmness which were necessary to execute the good he intended. In 1788, when the king became incapable of business, and the crown-prince assumed the government, Count Andrew Bernstorff, nephew of Ernest, was called to the ministry: and, while some nations were shrinking from the very name of innovation, and others overturning every establishment and violating every principle, Bernstorff steadily pursued, and ultimately effected, the gradual and bloodless amelioration of his country. His name will ever form a splendid epoch in the history of Denmark. The spirit of economical research and improvement which emanated from him still remains; while the personal character of the prince of Denmark, and the zeal with which he seconded the projects of his favourite minister, seem to afford a guarantee for the continuation of the same system of administration.

In his analysis of the present state of Denmark, Mr. Catteau, after a slight historical sketch of that country, divides his subject into sixteen sections.

1. Geographical and physical qualities of the Danish territory: 2. Form of Government: 3. Administration: 4. Institutions relative to government and administration: 5. Civil and criminal laws, and judiciary institutions: 6. Military system, land army, and marine: 7. Finance: 8. Population: 9. Productive industry, comprehending agriculture, the fisheries, and the extraction of mineral substances: 10. Manufacturing industry: 11. Commerce, interior and exterior, including the state of the great roads, the canals of navigation, the maritime insurances, the bank, &c. &c.: 12. Establishments of charity and public utility: 13. Religion: 14. Education: 15. Language, character, manners, and customs: 16. Sciences and arts.—This division we shall follow.

From the southern limits of Holstein to the southern extremity of Norway, the Danish dominions extend to 300 miles* in length, and are, upon an average, from about 50 to 60 in breadth; the whole forms an area of about 8000 square miles. The western coast of Jutland, from Riba to Lemvig, is principally alluvial, and presents much greater advantages to the cultivator than he has yet drawn from it. The eastern coast is also extremely favourable to vegetation. A sandy and barren ridge stretching from north to south, between the two coasts, is unfavourable to every species of culture, and hardly capable of supporting the wild and stunted shrubs which languish upon its surface. Towards the north, where the Jutland peninsula terminates in the Baltic, every thing assumes an aspect of barrenness and desolation. It is Arabia, without its sun or its verdant islands; but not without its tempests or sands, which sometimes overwhelm what little feeble agriculture they may encounter, and convert the habitual wretchedness of the Jutlanders into severe and cruel misfortune. The Danish government has attempted to remedy this evil, in some mea-

* The mile alluded to here, and through the whole of the book, is the Danish mile, 15 to a degree, or 4000 toises in round numbers: the ancient mile of Norway is much more considerable. It may be as well to mention here, that the Danes reckon their money by rixdollars, marks, and schellings. A rixdollar contains 6 marks, and a mark 16 schellings; 20 schellings are equal to one livre; consequently, the pound sterling is equal to 4 r. 4 m. 14 sch., or nearly 5 rixdollars.

sure, by encouraging the cultivation of those kind of shrubs which grow on the sea-shore, and by their roots give tenacity and aggregation to the sand. The *Elymus Arenaria*, though found to be the most useful for that purpose, is still inadequate to the prevention of the calamity.*

The Danish isles are of a green and pleasant aspect. The hills are turfed up to the top, or covered with trees; the valleys animated by the passage of clear streams; and the whole strikingly contrasted with the savage sterility, or imposing grandeur, of the scenes on the opposite coast of Jutland. All the seas of Denmark are well stored with fish; and a vast number of deep friths and inlets afford a cheap and valuable communication with the interior of the country.

The Danish rivers are neither numerous nor considerable. The climate, generally speaking, is moist and subject to thick fogs, which almost obscure the horizon. Upon a mean of twenty-six years, it has rained for a hundred and thirty days every year, and thundered for thirteen. Their summer begins with June, and ends with September. A calm serene sky, and an atmosphere free from vapours, are very rarely the lot of the inhabitants of Denmark; but the humidity with which the air is impregnated is highly favourable to vegetation; and all kinds of corn and grass are cultivated there with great success. To the south of Denmark are the countries of Sleswick and Holstein. Nature has divided these countries into two parts; the one of which is called *Geetsland*, the other *Marschland*. Geetsland is the elevated ground situated along the Baltic. The soil resembles that of Denmark. The division of Marschland forms a band or stripe, which extends from the Elbe to the frontiers of Jutland, an *alluvium* gained and preserved from the sea, by a labour which, though vigilant and severe, is repaid by the most ample profits. The sea, however, in all these alluvial countries, seldom forgets his original rights. Marschland, in the midst of all its tranquillity, fat, and silence, was invaded by this element in the year 1634, with the loss of whole villages, many thousands of horned cattle, and 1500 human beings.

Nature is as wild and grand in Norway as she is productive

* There is a Danish work, by Professor Viborg, upon those plants which grow in sand. It has been very actively distributed in Jutland, by the Danish administration, and might be of considerable service in Norfolk, and other parts of Great Britain.

in Marschland. Cataracts amid the dark pines; the eternal snow on the mountains; seas that bid adieu to the land, and stretch out to the end of the world; an endless succession of the great and the terrible,—leave the eye and the mind without repose. The climate of Norway is extremely favourable to the longevity of the human race, and sufficiently so to the life of many animals domesticated by man. The horses are of good breed; the horned cattle excellent, though small. Crops of grain are extremely precarious, and often perish before they come to maturity.*

In 1660, the very year in which this happier country was laying the foundations of rational liberty by the wise restrictions imposed upon its returning monarch, the people of Denmark, by a solemn act, surrendered their natural rights into the hands of their sovereign, endowed him with absolute power, and, in express words, declared him, for all his political acts, accountable only to him to whom all kings and governors are accountable. This revolution, similar to that effected by the king and people at Stockholm in 1772, was not a change from liberty to slavery; but from a worse sort of slavery to a better; from the control of an insolent and venal senate, to that of one man: it was a change which simplified their degradation, and, by lessening the number of their tyrants, put their servitude more out of sight. There ceased immediately to be an arbitrary monarch in every parish, and the distance of the oppressor, either operated as a diminution of the oppression, or was thought to do so. The same spirit, to be sure, which urged them to victory over one evil, might have led them on a little farther to the subjugation of both; and they might have limited the king, by the same powers which enabled them to dissolve the senate. But Europe, at that period, knew no more of liberty than of galvanism; and the peasants of Denmark no more dreamt of becoming free than the inhabitants of Paris do at this moment.

At present, Denmark is in theory one of the most arbitrary governments on the face of the earth. It has remained so ever since the revolution to which we have just alluded; in all which period the Danes have not, by any important act of rebellion, evinced an impatience of their yoke, or any sense,

* We shall take little notice of Iceland in this review, from the attention we mean to pay to that subject in the review of 'Voyage en Iceland, fait par ordre de sa Majesté Danoise,' 5 vols. 1802.

that the enormous power delegated to their monarchs has been improperly exercised. In fact, the Danish government enjoys great reputation for its forbearance and mildness; and sanctifies, in a certain degree, its execrable constitution, by the moderation with which it is administered. We regret extremely that Mr. Catteau has given us, upon this curious subject of the Danish government, such a timid and sterile dissertation. Many governments are despotic in law, which are not despotic in fact; not because they are restrained by their own moderation, but because, in spite of their theoretical omnipotence, they are compelled, in many important points, to respect either public opinion or the opinion of other balancing powers, which, without the express recognition of law, have gradually sprung up in the state. Russia, and Imperial Rome, had its prætorian guards. Turkey has its uhlema. Public opinion almost always makes some exceptions to its blind and slavish submission; and in bowing its neck to the foot of a sultan, stipulates how hard he shall tread. The very fact of enjoying a mild government for a century and a half, must, in their own estimation, have given the Danes a sort of right to a mild government. Ancient possession is a good title in all cases; and the King of Denmark may have completely lost the power of doing many just and many unjust actions, from never having exercised it in particular instances. What he has not done for so long a period, he may not dare to do now; and he may in vain produce constitutional parchment, abrogated by the general feelings of those whom they were intended to control. Instead of any information of this kind, the author of the Tableau has given us at full length the constitutional act of 1660, and has afforded us no other knowledge than we could procure from the most vulgar histories; as if state papers were the best place to look for constitutions, and as if the rights of king and people were really adjusted, by the form and solemnity of covenant and pacts; by oaths of allegiance, or oaths of coronation.

The king has his privy council, to which he names whom he pleases, with the exception of the heir-apparent, and the princes of the blood, who sit there of right. It is customary, also, that the heads of colleges should sit there. These colleges are the offices in which the various business of the state is carried on. The chancelry of Denmark interprets all laws which concern privileges in litigation, and the different de-

grees of authority belonging to various public bodies. It watches over the interests of church and poor: issues patents, edicts, grants, letters of naturalization, legitimacy, and nobility. The archives of the state are also under its custody. The German chancelry has the same powers and privileges in Sleswick and Holstein, which are fiefs of the empire. There is a college for foreign affairs; two colleges of finance; and a college of economy and commerce; which, divided into four parts, directs its attention to four objects: 1. Manufacturing industry: 2. Commerce: 3. Productions: 4. Possessions in the East Indies. All projects and speculations, relative to any of these objects, are referred to this college; and every encouragement given to the prosecution of such as it may approve. There are two other colleges, which respectively manage the army and navy. The total number is nine.

The court of Denmark is on a footing of great simplicity. The pomp introduced by Christian IV., who modelled his establishments after those of Louis XIV., has been laid aside, and a degree of economy adopted, much more congenial to the manners of the people, and the resources of the country. The hereditary nobility of Denmark may be divided into those of the ancient, those of the modern fiefs, and the personal nobility. The first class are only distinguished from the second, by the more extensive privileges annexed to their fiefs; as it has been the policy of the court of Denmark, in latter times, not to grant such immunities to the possessors of noble lands as had been accorded to them at earlier periods. Both of these classes, however, derive their nobility from their estates, which are inalienable, and descend according to the laws of primogeniture. In the third class, nobility derives from the person, and not from the estate. To prevent the female noblesse from marrying beneath their rank, and to preserve the dignity of their order, nine or ten Protestant nunneries have been from time to time endowed, in each of which about twelve noble women are accommodated, who, not bound by any vow, find in these societies an economical and elegant retirement. The nobility of Norway have no fiefs. The nobility of Holstein and Sleswick derive their nobility from their fiefs, and are possessed of very extensive privileges. Every thing which concerns their common interest is discussed in a convention held periodically in the town of Keil; during the vacations of the convention, there is a permanent deputation resident in the

same town. Interests so well watched by the nobles themselves, are necessarily respected by the court of Denmark. The same institution of free nunneries for the female nobility prevails in these provinces. Societies of this sort might perhaps be extended to other classes, and to other countries, with some utility. The only objection to a nunnery is, that those who change their mind cannot change their situation. That a number of unmarried females should collect together into one mass, and subject themselves to some few rules of convenience, is a system which might afford great resources and accommodation to a number of helpless individuals, without proving injurious to the community; unless, indeed, any very timid statesman shall be alarmed at the progress of celibacy, and imagine that the increase and multiplication of the human race may become a mere antiquated habit.

The lowest courts in Denmark are composed of a judge and a secretary, both chosen by the landed proprietors within the jurisdiction, but confirmed by the king, in whose name all their proceedings are carried on. These courts have their sessions once a week in Denmark, and are attended by four or five burgesses or farmers, in the capacity of assessors, who occasionally give their advice upon subjects of which their particular experience may entitle them to judge. From this jurisdiction there is appeal to a higher court, held every month in different places in Denmark, by judges paid by the crown. The last appeal for Norway and Denmark is to the *Hoieste Rett*, or supreme court, fixed at Copenhagen, which is occupied for nine months in the year, and composed half of noble, half of plebeian judges. This is the only tribunal in which the advocates plead *vivâ voce;* in all the others, litigation is carried on by writing. The king takes no cognizance of pecuniary suits determined by this court, but reserves to himself a revision of all its sentences which affect the life or honour of the subject. It has always been the policy of the court of Denmark to render justice as cheap as possible. We should have been glad to have learnt from Mr. Catteau, whether or not the cheapness of justice operates as an encouragement to litigation; and whether (which we believe is most commonly the case) the quality of Danish justice is not in the ratio of the price. But this gentleman, as we have before remarked, is so taken up by the formal part of institutions, that he has neither leisure nor inclination to say much of their spirit. The *Tri-*

bunal of Conciliation, established since 1795, is composed of the most intelligent and respectable men in the vicinage, and its sessions are private. It is competent to determine upon a great number of civil questions; and if both parties agree to the arrangement proposed by the court, its decree is registered, and has legal authority. If the parties cannot be brought to agreement by the amicable interference of the mediators, they are at full liberty to prosecute their suit in a court of justice. All the proceedings of the Tribunal of Conciliation are upon unstamped paper, and they cannot be protracted longer than fifteen days in the country, and eight days in the towns, unless both parties consent to a longer delay. The expenses, which do not exceed three shillings, are not payable, but in case of reconciliation. During the three years preceding this institution, there came before the courts of law, 25,521 causes; and, for the three years following, 9653, *making the astonishing difference of fifteen thousand eight hundred and sixty-three lawsuits.* The idea of this court was taken from the Dutch, among whom it likewise produced the most happy effects. And when we consider what an important point it is, that there should be time for disputants to cool; the strong probability there is, that four or five impartial men from the vicinage will take a right view of the case, and the reluctance that any man must feel to embark his reputation and property in opposition to their opinion, we cannot entertain a doubt of the beauty and importance of the invention. It is hardly possible that it should be bad justice which satisfies both parties, and this species of mediation has no validity but upon such condition. It is curious, too, to remark, how much the progress of rancour obstructs the natural sense of justice; it appears that plaintiff and defendant were *both* satisfied in 15,868 causes: if all these causes had come on to a regular hearing, and the parties been inflamed by the expense and the publicity of the quarrel, we doubt if there would have been one single man out of the whole number who would have acknowledged that his cause was justly given against him.

There are some provisions in the criminal law of Denmark, for the personal liberty of the subject, which cannot be of much importance, so long as the dispensing power is vested in the crown; however, though they are not much, they are better than nothing; and have probably some effect in offences merely criminal, where the passions and interests of the go-

vernors do not interfere. Mr. Catteau considers the law which admits the accused to bail, upon finding proper security, to be unjust, because the poor cannot avail themselves of it. But this is bad reasoning; for every country has a right to impose such restrictions and liens upon the accused, that they shall be forthcoming for trial; at the same time, those restrictions are not to be more severe than the necessity of the case requires. The primary and most obvious method of security is imprisonment. Whoever can point out any other method of effecting the same object, less oppressive to himself and as satisfactory to the justice of the country, has a right to require that it be adopted; whoever cannot, must remain in prison. It is a principle that should never be lost sight of, that an accused person is presumed to be innocent; and that no other vexation should be imposed upon him than what is absolutely necessary for the purposes of future investigation. The imprisonment of a poor man, because he cannot find bail, is not a gratuitous vexation, but a necessary severity; justified only, because no other, nor milder mode of security can, in that particular instance, be produced.

Inquisitorial and penal torture is, in some instances, allowed by the laws of Denmark: the former, after having been abolished, was re-established in 1771. The corporations have been gradually and covertly attacked in Denmark, as they have been in Great Britain. The peasants, who had before been attached to the soil, were gradually enfranchised between 1788 and 1800; so that, on the first day of the latter year, there did not remain a single slave in the Danish dominions; or, to speak more correctly, slavery was equalized among all ranks of people. We need not descant on the immense importance of this revolution; and if Mr. Catteau had been of the same opinion, we should have been spared two pages of very bad declamation; beginning, in the true French style, with "oh toi," and going on with what might be expected to follow such a beginning.

The great mass of territorial proprietors in Denmark are the signiors, possessing fiefs with very extensive privileges and valuable exemptions from taxes. Many persons hold lands under these proprietors, with interests in the land of very different descriptions. There are some cultivators who possess freeholds, but the number of these is very inconsiderable. The greater number of farmers are what the French call Metayers, put in by the landlord, furnished with stock

and seed at his expense, and repaying him in product, labour, or any other manner agreed on in the contract. This is the first, or lowest stage of tenantry, and is the surest sign of a poor country. The feudal system never took root very deeply in Norway: the greater part of the lands are freehold, and cultivated by their owners. Those which are held under the few privileged fiefs which still exist in Norway, are subjected to less galling conditions than farms of a similar tenure in Denmark. Marriage is a mere civil contract among the privileged orders: the presence of a priest is necessary for its celebration among the lower orders. In every large town, there are two public tutors appointed, who, in conjunction with the magistrates, watch over the interests of wards, at the same time that they occupy themselves with the care of the education of children within the limits of their jurisdiction. Natural children are perhaps more favoured in Denmark than in any other kingdom of Europe; they have half the portion which the law allots to legitimate children, and the whole if there are no legitimate.

A very curious circumstance took place in the kingdom of Denmark, in the middle of the last century, relative to the infliction of capital punishments upon malefactors. They were attended from the prison to the place of execution by priests, accompanied by a very numerous procession, singing psalms, &c. &c.: which ended, a long discourse was addressed by the priest to the culprit, who was hung as soon as he had heard it. This spectacle, and all the pious cares bestowed upon the criminals, so far seduced the imaginations of the common people, that many of them committed murder purposely to enjoy such inestimable advantages, and the government was positively obliged to make hanging dull as well as deadly, before it ceased to be an object of popular ambition.

In 1796, the Danish land forces amounted to 74,654, of which 50,880 were militia.* Amongst the troops on the Norway establishment, is a regiment of skaters. The pay of a colonel in the Danish service is about 1740 rixdollars *per annum*, with some perquisites; that of a private 6 schellings a day. The entry into the Danish states from the German side is naturally strong. The passage between Lubeck and Hamburg

* The militia is not embodied in regiments by itself, but divided among the various regiments of the line.

is only eight miles, and the country intersected by marshes, rivers, and lakes. The straits of the Baltic afford considerable security to the Danish isles; and there are very few points in which an army could penetrate through the Norway mountains to overrun that country. The principal fortresses of Denmark are Copenhagen, Rendsbhurg, Gluchstadt, and Frederickshall. In 1801, the Danish navy consisted of 3 ships of 80 guns, 12 of 74, 2 of 70, 3 of 64, and 2 of 60; 4 frigates of 40, 3 of 36, 3 of 24, and a number of small vessels; in all, 22 of the line, and 10 frigates.*

The revenues of Denmark are derived from the interest of a capital formed by the sale of crown lands; from a share in the tithes; from the rights of fishing and hunting let to farm; from licenses granted to the farmers to distil their own spirits; from the mint, post, turnpikes, lotteries, and the passage of the Sound. About the year 1750, the number of vessels which passed the Sound both ways, was annually from 4000 to 5000; in 1752, the number of 6000 was considered as very extraordinary. They have increased since in the following ratio:—

1770 - -	7,736
1777 - -	9,047
1783 - -	11,166
1790 - -	9,734
1796 - -	12,113
1800 - -	9,048

In 1770, the Sound duties amounted to 459,890 rixdollars; and they have probably been increased since that period to about half a million. To these sources of revenue are to be added, a capitation tax, a land tax, a tax on rank, a tax on places, pensions, and the clergy; the stamps, customs, and excise; constituting a revenue of 7,270,172 rixdollars.† The

* In 1791, the Swedish army amounted to 47,000 men, regulars and militia; their navy to not more than 16 ships of the line: before the war it was about equal to the Danish navy. The author of *Voyage des deux Français* places the regular troops of Russia at 250,000 men exclusive of guards and garrisons; and her navy, as it existed in 1791, at 30 frigates, and 50 sail of the line, of which 8 were of 110 guns. This is a brief picture of the forces of the Baltic powers.

† Upon the subject of the Danish revenues, see Toze's Introduction to the Statistics, edited and improved by Heinz, 1799, tom. xi. From this work Mr. Catteau has taken his information concerning the Danish revenues. See also the 19th cap. vol. ii. of *Voyage des deux Français,*

following is a table of the expenses of the Danish government.

	Rixdollars.
The court - - - - -	250,000
The minor branches of the royal family -	180,000
Civil servants - - - -	707,500
Secret service money and pensions - -	231,000
Army - - - - -	2,080.000
Navy - - - - -	1,200,000
East India colonies - - - -	180,000
Bounties to commerce and manufactures -	300,000
Annuities - - - - -	27,000
Buildings and repairs - - -	120,000
Interest of the public debt - - -	1,100,000
Sinking fund - - - -	150,000
Total -	6,525,500

The state of the Danish debt does not appear to be well ascertained. *Voyage des deux Français* makes it amount to 13,645,046 rixdollars. Catteau seems to think it must have been above 20,000,000 rixdollars at that period. The Danish government has had great recourse to the usual expedient of issuing paper money. So easy a method of getting rich has of course been abused; and the paper was, in the year 1790, at a discount of 8, 9, and 10 *per cent*. There is, in general, a great want of specie in Denmark; for, though all the Sound duties are paid in gold and silver, the government is forced to export a considerable quantity of the precious metals, for the payment of its foreign debts and agents; and, in spite of the rigid prohibitions to the contrary, the Jews, who swarm at Copenhagen, export Danish ducats to a large value. The court of Denmark has no great credit out of its own dominions, and has always experienced a considerable difficulty in raising its loans in Switzerland, Genoa, and Holland, the usual markets it has resorted to for that purpose.

In the census taken in 1769, the return was as follows:—

which is admirable for extent and precision of information. In general, indeed, this work cannot be too much attended to by those who wish to become acquainted with the statistics of the north of Europe

In Denmark - - -	785,690
Norway - - -	722,141
Iceland - - -	46,201
Ferro Isles - - -	4,754
Sleswick - - -	243,605
Holstein - - -	134,665
Oldenbourg and Delmenhurst -	79,071
	2,017,127

This census was taken during the summer, a season in which great numbers of sailors are absent from their families; and as it does not include the army, the total ought, perhaps, to be raised to 2,225,000. The present population of the Danish states, calculating from the tables of life and death, should be about two millions and a half; the census lately taken has not yet been published. From registers kept for a number of years, it appears that the number of marriages were to the whole population, as 1 to 125; and the number of births to the whole population, were as 1 to 32 or 33; of deaths, as 1 to 38. In 1797, in the diocese of Vibourg, out of 8600 children, 80 were bastard: in the diocese of Fionia, 280 out of 1146. Out of 1356, dead in the first of these dioceses, 100 had attained the age of 80, and one of 100. In 1769, the population of the towns was 144,105; in 1787, it was 142,880. In the first of these years, the population of the country was 641,485; and in the latter, 667,165. The population of Copenhagen consisted, in the year 1799, of 42,142 males, and 41,476 females. The deaths exceeded the births, says Mr. Catteau; and to prove it, he exhibits a table of deaths and births for six years. Upon calculating this table, however, it appears, that the sum of the births, at Copenhagen, during that period, exceeds the sum of the deaths by 491, or nearly 82 *per annum;* about $\frac{1}{1000}$ of the whole population of the city. The whole kingdom increases $\frac{6}{1216}$, or nearly $\frac{1}{202}$ in a year.* There is no city in Denmark proper, except Copenhagen, which has a population of more than 5000 souls. The density of population in Denmark proper is about 1300 to the square mile.† The proportion of births and deaths in the

* The average time in which old countries double their population is stated by Adam Smith to be about 500 years.

† The same rule is used here as in p. 279.

duchies, is the same as in Denmark; that of marriages, as 1 to 115. Altona, the second city in the Danish dominions, has a population of 20,000. The density of population in Marschland is 6000 per square mile. The paucity of inhabitants in Norway is not merely referable to the difficulties of subsistence, but to the administrative system established there, and to the bad state of its civil and economical laws. It has been more than once exposed to the horrors of famine, by the monopoly of the commerce of grain established there, from which, however, it has at length been delivered. The proportion of births to the living, is as 1 to 35; that of deaths to the living, as 1 to 49.* So that the whole Danish dominions increase, every year, by about $\frac{1}{203}$; and Norway, which has the worst climate and soil, by about $\frac{1}{222}$; exceeding the common increase by nearly $\frac{1}{300}$ of the whole population. Out of 26,197 persons who died in Denmark in 1799, there were 165 between 80 and 100; and out of 18,354 who died in Norway the same year, there were 208 individuals of the same advanced age. The country population is to the town population in the ratio of 13 to 137. In some parts of Nordland and Finmarken, the population is as low as 15 to the square mile.

Within the last twenty or thirty years, the Danes have done a great deal for the improvement of their country. The peasants, as we have before mentioned, are freed from the soil. The greater part of the clerical, and much of the lay tithes are redeemed, and the corvées and other servile tenures begin to be commuted for money. A bank of credit is established at Copenhagen, for the loan of money to persons engaged in speculations of agriculture and mining. The interest is 4 *per cent.*, and the money is repaid by instalments in the course of from 21 to 28 years. In the course of 12 years, the bank has lent about three millions of rixdollars. The external and domestic commerce of grain is now placed upon the most liberal footing. The culture of potatoes (*ce fruit modeste*) has at length found its way into Denmark, after meeting with the same objections which it experienced at its first introduction from every nation in Europe. Hops are a good deal attended to in Fionia, though enough are not yet grown for the supply of the country. Tobacco is cultivated in the environs of Fred-

* This proportion is very remarkable proof of the longevity of the Norwegians.

ericia, in Jutland, by the industrious descendants of a French colony planted there by Frederick IV. Very little hemp and flax are grown in the Danish dominions. They had veterinary schools previous to the present establishment of them in Great Britain. Indeed, there was a greater necessity for them in Denmark; as no country in Europe has suffered so severely from diseases among its animals. The decay of the woods begins to be very perceptible; and great quantities, both for fuel and construction, are annually imported from the other countries bordering the Baltic. They have pit-coal; but, either from its inferior quality, or their little skill in working it, they are forced to purchase to a considerable amount from England. The Danes have been almost driven out of the herring market by the Swedes. Their principal export of this kind is dried fish; though, at Altona, their fisheries are carried on with more appearance of enterprise than elsewhere. The districts of Hedemarken, Hodeland, Toten, and Romerige, are the parts of Norway most celebrated for the cultivation of grain, which principally consists of oats. The distress in Norway is sometimes so great, that the inhabitants are compelled to make bread of various sorts of lichens, mingled with their grain. It has lately been discovered that the *Lichen rangiferus*, or reindeer's moss, is extremely well calculated for that purpose. The Norway fisheries bring to the amount of a million and a half of rixdollars annually into the country. The most remarkable mines in Norway are, the gold mines of Edsvold, the silver mines of Konigsberg, the copper mines of Ræraas, and the iron mines of Arendal and Krageræ, the cobalt mines of Fossum, and the black-lead mines of Englidal. The court of Denmark is not yet cured of the folly of entering into commercial speculations on its own account. From the year 1769 to 1792, 78,000 rixdollars *per annum* have been lost on the royal mines alone. Norway produces marble of different colours, very beautiful granites, mill, and whet-stones, and alum.

The principal manufactures of Denmark are those of cloth, cotton-printing, sugar refining, and porcelain; of which latter manufactures, carried on by the crown, the patient proprietors hope that the profits may at some future period equal the expenses. The manufactories for large and small arms are at Frederickwaerk and Elsineur; and, at the gates of Copenhagen, there has lately been erected a cotton spinning-mill upon the construction so well known in England. At Tendern, in

Sleswick, there is a manufacture of lace; and very considerable glass manufactories in several parts of Norway. All the manufacturing arts have evidently travelled from Lubeck and Hamburg; the greater part of the manufacturers are of German parentage; and vast numbers of manufacturing Germans are to be met with, not only in Denmark, but throughout Sweden and Russia.

The Holstein canal, uniting the Baltic and the North Sea, is extremely favourable to the interior commerce of Denmark, by rendering unnecessary the long and dangerous voyage round the peninsula of Jutland. In the year 1785, there passed through this canal 409 Danish, and 44 foreign ships. In the year 1798, 1086 Danish, and 1164 foreign. This canal is so advantageous, and the passage round Jutland so very bad, that goods, before the creation of the canal, were very often sent by land from Lubeck to Hamburg. The amount of cargoes despatched from Copenhagen for Iceland, between the years 1764 and 1784, was 2,560,000 rixdollars; that of the returns, 4,665,000. The commerce with the isles of Foeroe is quite inconsiderable. The exports from Greenland, in the year 1787, amounted to 168,475 rixdollars; its imports to 74,427. None of these possessions are suffered to trade with foreign nations, but through the intervention of the mother country. The cargoes despatched to the Danish West Indies consist of all sorts of provisions, of iron, of copper, of various Danish manufactures, and of some East India goods. The returns are made in sugar, rum, cotton, indigo, tobacco, and coffee. There are about 75 vessels employed in this commerce, from the burden of 40 to 200 tons.

If the slave trade, in pursuance of the laws to that effect, ceases in the Danish colonies, the establishments on the coast of Africa will become rather a burden than a profit. What measures have been taken to insure the abolition, and whether or not the philanthropy of the mother country is likely to be defeated by the interested views of the colonists, are delicate points, which Mr. Catteau, who often seems to think more of himself than of his reader, passes over with his usual timidity and caution. The present year is the period at which all further importation of negroes ought to cease; and if this wise and noble law be really carried into execution, the Danes will enjoy the glory of having been the first to erase this foulest blot in the morality of Europe, and to abolish a wicked and

absurd traffic, which purchases its luxuries at the price of impending massacre, and present oppression. Deferred revenge is always put out to compound interest, and exacts its dues with more than Judaical rigour. The Africans have begun with the French:

——Jam proximus ardet
Ucalegon.

Tea, rhubarb and porcelain are the principal articles brought from China. The factories in the East Indies send home cotton cloths, silk, sugar, rice, pepper, ginger, indigo, opium, and arrack. Their most important East Indian settlement is Fredericksnager.* Denmark, after having been long overshadowed by the active industry of the Hanseatic towns, and embarrassed by its ignorance of the true principles of commerce, has at length established important commercial connections with all the nations of Europe, and has regulated those connections by very liberal and enlightened principles. The regulations for the customs, published in 1791, are a very remarkable proof of this assertion. Every thing is there arranged upon the most just and simple principles; and the whole code evidences the striking progress of mercantile knowledge in that country. In looking over the particulars of the Danish commerce, we were struck with the immense increase of their freightage during the wars of this country; a circumstance which should certainly have rendered them rather less disposed to complain of the vexations imposed upon the neutral powers during such periods.† In the first six months of the year 1796, 5032 lasts of Danish shipping were taken up by strangers for American voyages only. The commercial tonnage of Denmark is put at about 85,000 lasts.

There appears to exist in the kingdom of Denmark, according to the account of Mr. Catteau, a laudable spirit of religious toleration; such as, in some instances, we might copy, with

* We should very willingly have gone through every branch of the Danish commerce, if we had not been apprehensive of extending this article too far. Mr. Catteau gives no general tables of the Danish exports and imports. A German work places them, for the year 1768, as follows:—Exports, 3,067,051 rixdollars; imports, 3,215,085.—*Ur. Kunden, par Gatspari.*

† To say nothing of the increased sale of Norway timber, out of 86,000 lasts exported from Norway, 1799, 76,000 came to Great Britain.

great advantage, in this island. It is not, for instance, necessary in Denmark, that a man should be a Lutheran, before he can be the mayor of a town; and, incredible as it may seem to some people, there are many officers and magistrates, who are found capable of civil trusts, though they do not take the sacraments, exactly in the forms prescribed by the established church. There is no doubt, however, of the existence of this very extraordinary fact; and, if Mr. Catteau's authority is called in question, we are ready to corroborate it by the testimony of more than one dozen German statists. The Danish church consists of 13 bishops, 227 archpriests, and 2462 priests. The principal part of the benefices are, in Norway, in the gift of the crown. In some parts of Denmark, the proprietors of the privileged lands are the patrons; in other parts, the parishes. The revenues of the clergy are from the same sources as our own clergy. The sum of the church revenues is computed to be 1,391,895 rixdollars; which is little more than 500 for each clergyman.* The court of Denmark is so liberal upon the subject of sectaries, that the whole royal family and the Bishop of Seland assisted at the worship of the Calvinists in 1789, when they celebrated, in the most public manner, the centenary of the foundation of their church. In spite of this tolerant spirit, it is computed that there are not more than 1800 Calvinists in the whole Danish dominions. At Christianfeld, on the frontiers of Sleswick and Jutland, there is a colony of Northern Quakers, or Hernhutes, of which Mr. Catteau has given a very agreeable account. They appear to be characterized by the same neatness, order, industry, and absurdity, as their brethren in this country; taking the utmost care of the sick and destitute, and thoroughly persuaded that by these good deeds, aided by long pockets and slouched hats, they are acting up to the true spirit of the Gospel. The Greenlanders were converted to Christianity by a Norwegian priest, named John Egede. He was so eminently successful in the object of his mission, and contrived to make himself so very much beloved, that his memory is still held among them in the highest veneration; and they actually date their chronology from the year of his arrival, as we do ours from the birth of our Saviour.

* The Jews, however, are still prohibited from entering the kingdom of Norway.

There are, in the University of Copenhagen, seven professors of theology, two of civil law, two of mathematics, one of Latin and rhetoric, one of Greek, one of oriental languages, one of history, five of medicine, one of agriculture, and one of statistics. They enjoy a salary of from 1000 to 1500 rixdollars, and are well lodged in the university. The University of Copenhagen is extremely rich, and enjoys an income of 3,000,000 rixdollars. Even Mr. Catteau admits that it has need of reform. In fact, the reputation of universities is almost always short-lived, or else it survives their merit. If they are endowed, professors become fat-witted, and never imagine that the arts and sciences are any thing else but incomes. If universities, slenderly endowed, are rendered famous by the accidental occurrence of a few great teachers, the number of scholars attracted there by the reputation of the place, makes the situation of a professor worth intriguing for. The learned pate is not fond of ducking to the golden fool. He who has the best talents for getting the office, has most commonly the least for filling it; and men are made moral and mathematical teachers by the same trick and filthiness with which they are made tide-waiters, and clerks of the kitchen.

The number of students in the University of Copenhagen is about 700: they come not only from Denmark, but from Norway and Iceland: the latter are distinguished as well for the regularity of their manners, as for the intensity of their application; the instruments of which application are furnished to them by a library containing 60,000 volumes. The Danes have primary schools established in the towns, but which have need of much reform, before they can answer all the beneficial ends of such an institution. We should have been happy to have learned from Mr. Catteau, the degree of information diffused among the lower orders in the Danish dominions; but upon this subject he is silent. In the University of Keil there is an institution for the instruction of schoolmasters; and in the list of students in the same university, we were a good deal amused to find only one student dedicating himself to belles lettres.

The people of Holstein and Sleswick are Dutch in their manners, character, and appearance. Their language is in general the low German; though the better sort of people in the towns begin to speak high German.* In Jutland and the

*Mr. Catteau's description of Heligoland is entertaining. In an

isles, the Danish language is spoken: within half a century this language has been cultivated with some attention: before that period, the Danish writers preferred to make use of the Latin or the German language. It is in the island of Finland that it is spoken with the greatest purity. The Danish character is not agreeable. It is marked by silence, phlegm, and reserve. A Dane is the excess and extravagance of a Dutchman; more breeched, more ponderous, and more saturnine. He is not often a bad member of society in the great points of morals, and seldom a good one in the lighter requisites of manners. His understanding is alive only to the useful and the profitable; he never lives for what is merely gracious, courteous, and ornamental. His faculties seem to be drenched and slackened by the eternal fogs in which he resides; he is never alert, elastic, nor serene. His state of animal spirits is so low, that what in other countries would be deemed dejection, proceeding from casual misfortune, is the habitual tenour and complexion of his mind. In all the operations of his understanding, he must have time. He is capable of undertaking great journeys; but he travels only a foot pace, and never leaps nor runs. He loves arithmetic better than lyric poetry, and affects Cocker rather than Pindar. He is slow to speak of fountains and amorous maidens; but can take a spell at porisms as well as another; and will make profound and extensive combinations of thought, if you pay him for it, and do not insist that he shall either be brisk or brief. There is something, on the contrary, extremely pleasing in the Norwegian style of character. The Norwegian expresses firmness and elevation in all that he says and does. In comparison with the Danes, he has always been a free man; and you read his history in his looks. He is not apt, to be sure, to forgive his enemies; but he does not deserve any; for he is hospitable in the extreme, and prevents the needy in their wants. It is not possible for a writer of this country to speak ill of the Norwegians; for, of all strangers, the people of Norway love and admire the British the most. In reading Mr. Catteau's account of the congealed and blighted Laplanders, we were struck with the infinite delight they must have in dying; the only circumstance in which they can enjoy any superiority over the rest of mankind; or

island containing a population of 2000, there is neither horse, cart, nor plough. We could not have imagined the possibility of such a fact in any part of Europe.

which tends, in their instance, to verify the theory of the equality of human condition.

If we pass over Tycho Brahé, and the well known history of the Scaldes, of the chronicles of Isleif, Sæmunder, Hiinfronde, Snorro, Sturleson, and other Islandic worthies, the list of Danish literati will best prove that they have no literati at all. Are there twenty persons in Great Britain who have ever heard of Longomontanus, Nicholas Stenaonis, Sperling Laurenburg, Huitfeild, Gramn, Holberg, Langebeck, Carstens, Suhm, Kofod, Anger? or of the living Wad, Fabricius, Hanch, Tode, and Zæga? We do not deny merit to these various personages; many of them may be much admired by those who are more conversant in Danish literature than we can pretend to be: but they are certainly not names on which the learned fame of any country can be built very high. They have no classical celebrity and diffusion: they are not an universal language; they have not enlarged their original dominion, and become the authors of Europe instead of the authors of Denmark. It would be loss of time to speak of the fine arts in Denmark: they hardly exist.

We have been compelled to pass over many parts of Mr. Catteau's book more precipitately than we could have wished; but we hope we have said and exhibited enough of it, to satisfy the public that it is, upon the whole, a very valuable publication. The two great requisites for his undertaking, moderation and industry, we are convinced this gentleman possesses in an eminent degree. He represents every thing without prejudice, and he represents every thing authentically. The same cool and judicious disposition which clears him from the spirit of party, makes him perhaps cautious in excess. We are convinced that every thing he says is true; but we have been sometimes induced to suspect that we do not see the whole truth. After all, perhaps, he has told as much truth as he could do, compatibly with the opportunity of telling any. A person more disposed to touch upon critical and offensive subjects might not have submitted as diligently to the investigation of truth, with which passion was not concerned. How few writers are, at the same time, laborious, impartial, and intrepid!

We cannot conclude this article without expressing the high sense we entertain of the importance of such researches as those in which Mr. Catteau has been engaged. They must form the basis of all interior regulations, and ought principally to influence the conduct of every country in its relations towards

foreign powers. As they contain the best estimate of the wealth and happiness of a people, they bring theory to the strictest test; and measure, better than all reasoning, the wisdom with which laws are made, and the mildness with which they are administered. If such judicious and elaborate surveys of the state of this and other countries in Europe, had been made from time to time for the last two centuries, they would have quickened and matured the progress of knowledge, and the art of governing by throwing light on the spirit and tendency of laws; they would have checked the spirit of officious interference in legislation; have softened persecution, and expanded narrow conceptions of national policy. The happiness of a nation would have been proclaimed by the fulness of its garners, and the multitudes of its sheep and oxen; and rulers might sometimes have sacrificed their schemes of ambition, or their unfeeling splendour, at the detail of silent fields, empty harbours, and famished peasants.

THOUGHTS ON THE RESIDENCE OF THE CLERGY.

(Edinburgh Review, 1803.)

Thoughts on the Residence of the Clergy. By John Sturges, LL.D.

This pamphlet is the production of a gentleman who has acquired a right to teach the duties of the clerical character by fulfilling them; and who has exercised that right, in the present instance, with honour to himself, and benefit to the public. From the particular character of understanding evinced in this work, we should conceive Dr. Sturges to possess a very powerful claim to be heard on all questions referable to the decision of practicable good sense. He has availed himself of his experience to observe; and of his observation, to judge well: he neither loves his profession too little, nor too much; is alive to its interests, without being insensible to those of the community at large; and treats of those points where his previous habits might render a little intemperance venial, as well as probable, with the most perfect good humour and moderation.

As exceptions to the general and indisputable principle of residence, Dr. Sturges urges the smallness of some livings; the probability that their incumbents be engaged in the task of education, or in ecclesiastical duty, in situations where their talents may be more appropriately and importantly employed. Dr. Sturges is also of opinion, that the power of enforcing residence, under certain limits, should be invested in the bishops; and that the acts prohibiting the clergy to hold or cultivate land, should be in a great measure repealed.

We sincerely hope that the two cases suggested by Dr. Sturges, of the clergyman who may keep a school, or be engaged in the duty of some parish not his own, will be attended to in the construction of the approaching bill, and admitted as pleas for non-residence. It certainly is better that a clergyman should do the duty of his own benefice, rather than of any other. But the injury done to the community, is not commensurate with the vexation imposed upon the individual.

Such a measure is either too harsh, not to become obsolete; or, by harassing the clergy with a very severe restriction, to gain a very disproportionate good to the community, would bring the profession into disrepute, and have a tendency to introduce a class of men into the church, of less liberal manners, education, and connection; points of the utmost importance, in our present state of religion and wealth. Nothing has enabled men to do wrong with impunity so much as the extreme severity of the penalties with which the law has threatened them. The only method to insure success to the bill for enforcing ecclesiastical residence, is to consult the convenience of the clergy in its construction, as far as is possibly consistent with the object desired, and even to sacrifice something that *ought* to be done, in order that much *may* be done. Upon this principle, the clergyman should not be confined to his parsonage-house, but to the precincts of his parish. Some advantage would certainly attend the residence of the clergy in their official mansions; but, as we have before observed, the good one party would obtain, bears no sort of proportion to the evil the other would suffer.

Upon the propriety of investing the bench of bishops with a power of enforcing residence, we confess ourselves to entertain very serious doubts. A bishop has frequently a very temporary interest in his diocese: he has favours to ask; and he must grant them. Leave of absence will be granted to powerful intercession; and refused, upon stronger pleas, to men without friends. Bishops are frequently men advanced in years, or immersed in study. A single person who compels many others to their duty, has much odium to bear, and much activity to exert. A bishop is subject to caprice, and enmity, and passion, in common with other individuals; there is some danger, also, that his power over the clergy may be converted to a political purpose. From innumerable causes, which might be reasoned upon to great length, we are apprehensive the object of the legislature will be entirely frustrated in a few years, if it be committed to episcopal superintendence and care; though, upon the first view of the subject, no other scheme can appear so natural and so wise.

Dr. Sturges observes, that after all the conceivable justifications of non-residence are enumerated in the act, many others must from time to time occur, and indicate the propriety of vesting somewhere a discretionary power. If this be true of

the penalties by which the clergy are governed, it is equally true of all other penal laws; and the law should extend to every offence the contingency of discretionary omission. The objection to this system is, that it trusts too much to the sagacity and the probity of the judge, and exposes a country to the partial, lax, and corrupt administration of its laws. It is certainly inconvenient, in many cases, to have no other guide to resort to but the unaccommodating mandates of an act of Parliament: yet, of the two inconveniences, it is the least. It is some palliation of the evils of discretionary power, that it should be exercised (as by the court of chancery) in the face of day, and that the moderator of law should himself be moderated by the force of precedent and opinion. A bishop will exercise his discretionary power in the dark; he is at full liberty to depart to-morrow from the precedent he has established to-day; and to apply the same decisions to different, or different decisions to the same circumstances, as his humour or interest may dictate. Such power may be exercised well under one judge of extraordinary integrity; but it is not very probable he will find a proper successor. To suppose a series of men so much superior to temptation, and to construct a system of church government upon such a supposition, is to build upon sand, with materials not more durable than the foundation.

Sir William Scott has made it very clear, by his excellent speech, that it is not possible, in the present state of the revenues of the English church, to apply a radical cure to the evil of non-residence. It is there stated, that out of 11,700 livings, there are 6000 under 80*l.* *per annum;* many of those, 20*l.*, 30*l.*, and some as low as 2*l.* or 3*l.* *per annum.* In such a state of endowment, all idea of rigid residence is out of the question. Emoluments which a footman would spurn, can hardly recompense a scholar and a gentleman. A mere palliation is all that can be applied; and these are the ingredients of which we wish such a palliation should be composed:—

1. Let the clergymen have full liberty of farming, and be put in this respect exactly upon a footing with laymen.

2. Power to reside in any other house in the parish, as well as the parsonage-house, and to be absent five months in the year.

3. Schoolmasters, and ministers *bonâ fide* discharging ministerial functions in another parish, exempt from residence.

4. Penalties in proportion to the value of livings, and number of times the offence has been committed.

5. Common informers to sue as at present; though *probably* it might be right to make the name of one parishioner a necessary addition; and a proof of non-residence might be made to operate as a nonsuit in an action for tithes.

6. No action for non-residence to lie where the benefice was less than 80*l. per annum;* and the powers of bishops to remain precisely as they are.

These indulgences would leave the clergy without excuse, would reduce the informations to a salutary number, and diminish the odium consequent upon them, by directing their effects against men who regard church preferment merely as a source of revenue, not as an obligation to the discharge of important duties.

We venture to prognosticate, that a bill of greater severity either will not pass the House of Commons, or will fail of its object. Considering the times and circumstances, we are convinced we have stated the greatest quantum of *attainable* good; which of course will not be attained, by the customary error, of attending to what is desirable to be done, rather than to what it is practicable to do.

TRAVELS FROM PALESTINE. (Edinburgh Review, 1807.)

The Travels of Bertrandon de la Brocquière, First Esquire-Carver to Philip le Bon, Duke of Burgundy, during the years 1432, 1433.—Translated from the French, by Thomas Johnes, Esq.

In the year 1432, many great lords in the dominions of Burgundy, holding offices under Duke Philip le Bon, made a pilgrimage to Jerusalem. Among them was his first esquire-carver La Brocquière, who, having performed many devout pilgrimages in Palestine, returned sick to Jerusalem, and during his convalescence, formed the bold scheme of returning to France over land. This led him to traverse the western parts of Asia, and Eastern Europe; and, during the whole journey, except towards the end of it, he passed through the dominions of the Musselmen. The execution of such a journey, even at this day, would not be without difficulty; and it was then thought to be impossible. It was in vain that his companions attempted to dissuade him; he was obstinate; and, setting out, overcame every obstacle; returned in the course of the year 1433, and presented himself to the duke in his Saracen dress, and on the horse which had carried him during the whole of his journey. The duke, after the fashion of great people, conceiving that the glory of his esquire-carver was his own, caused the work to be printed and published.

The following is a brief extract of this valiant person's peregrinations. 'After performing the customary pilgrimages, we went,' says La Brocquière, 'to the mountain where Jesus fasted forty days; to Jordan, where he was baptized; to the church of St. Martha, where Lazarus was raised from the dead; to Bethlehem, where he was born; to the birth-place of St. John the Baptist; to the house of Zachariah; and, lastly, to the holy cross, where the tree grew that formed the real cross.' From Jerusalem the first gentleman-carver betook himself to Mount Sinai, paying pretty handsomely to the Saracens for that privilege. These infidels do not appear to have ever prevented the Christian pilgrims from indulging their curiosity and

devotion in visiting the most interesting evangelical objects in the Holy Land; but, after charging a good round price for this gratification, contented themselves with occasionally kicking them, and spitting upon them. In his way to Mount Sinai, the esquire-carver passed through the Valley of Hebron, where he tells us, Adam was created; and from thence to Gaza, where they showed him the columns of the building which Samson pulled down; though, of the identity of the building, the esquire seems to entertain some doubts. At Gaza five of his companions fell sick, and returned to Jerusalem. The second day's journey in the desert the carver fell ill also,—returned to Gaza, where he was cured by a Samaritan,—and finding his way back to Jerusalem, hired some pleasant lodgings on Mount Sion.

Before he proceeded on his grand expedition over land, he undertook a little expedition to Nazareth, hearing, first of all, divine service at the Cordeliers, and imploring, at the tomb of our lady, her protection for his journey. From Jerusalem their first stage was Acre, where they gave up their intended expedition, and repaired to Baruth, whence Sir Samson de Lalaing and the author sallied afresh, under better auspices, to Damascus. He speaks with great pleasure of the valley where Noah built the ark, through which valley he passed in his way to Damascus; upon entering which town he was knocked down by a Saracen for wearing an ugly hat,—as he probably would be in London for the same offence in the year 1807. At Damascus, he informs us the Christians are locked up every night, —as they are in English workhouses, night and day, when they happen to be poor. The greatest misfortune attendant upon this Damascene incarceration, is the extreme irregularity with which the doors are opened in the morning, their janitor having no certain hour of quitting his bed. At Damascus, he saw the place where St. Paul had a vision. 'I saw also,' says he, 'the stone from which St. George mounted his horse, when he went to combat the dragon. It is two feet square; and they say that, when formerly the Saracens attempted to carry it away, in spite of all the strength they employed, they could not succeed.' After having seen Damascus, he returns with Sir Samson to Baruth; and communicates his intentions of returning over land to France to his companions. They state to him the astonishing difficulties he will have to overcome in the execution of so extraordinary a project; but the admirable carver,

determined to make no bones, and to cut his way through every obstacle, persists in his scheme, and bids them a final adieu. He is determined, however, not to be baffled in his subordinate expedition to Nazareth; and, having now got rid of his timid companions, accomplishes it with ease. We shall here present our readers with an extract from this part of his journal, requesting them to admire the naïf manner in which he speaks of the vestiges of ecclesiastical history.

'Acre, though in a plain of about four leagues in extent, is surrounded on three sides by mountains, and on the fourth by the sea. I made acquaintance there with a Venetian merchant called Aubert Franc, who received me well, and procured me much useful information respecting my two pilgrimages, by which I profited. With the aid of his advice, I took the road to Nazareth; and, having crossed an extensive plain, came to the fountain, the water of which our Lord changed into wine at the marriage of Archétréclin; it is near a village where St. Peter is said to have been born.

'Nazareth is another large village, built between two mountains; but the place where the angel Gabriel came to announce to the Virgin Mary that she would be a mother, is in a pitiful state. The church that had been there built is entirely destroyed; and of the house wherein our lady was when the angel appeared to her, not the smallest remnant exists.

'From Nazareth I went to Mount Tabor, the place where the transfiguration of our Lord, and many other miracles took effect. These pasturages attract the Arabs who come thither with their beasts; and I was forced to engage four additional men as an escort, two of whom were Arabs. The ascent of the mountain is rugged, because there is no road; I performed it on the back of a mule, but it took me two hours. The summit is terminated by an almost circular plain of about two bow-shots in length, and one in width. It was formerly enclosed with walls, the ruins of which, and the ditches, are still visible: within the wall, and around it, were several churches, and one especially, where, although in ruins, full pardon for vice and sin is gained.

'We went to lodge at Samaria, because I wished to see the lake of Tiberias, where it is said St. Peter was accustomed to fish; and, by so doing, some pardons may be gained, for it was the ember week of September. The Moucre left me to myself the whole day. Samaria is situated on the extremity of a mountain. We entered at the close of day, and left it at midnight to visit the lake. The Moucre had proposed this hour to evade the tribute exacted from all who go thither; but the night hindered me from seeing the surrounding country.

'I went first to Joseph's Well, so called from his being cast into it by his brethren. There is a handsome mosque near it, which I entered with my Moucre, pretending to be a Saracen.

'Further on is a stone bridge over the Jardon, called Jacob's Bridge, on account of a house hard by, said to be the residence of that patri-

arch. The river flows from a gentle lake situated at the foot of a mountain to the north-west, on which Namcardin has a very handsome castle.'—(pp. 122—128.)

From Damascus, to which he returns after his expedition to Nazareth, the first carver of Philip le Bon sets out with the caravan for Bursa. Before he begins upon his journey, he expatiates with much satisfaction upon the admirable method of shoeing horses at Damascus,—a panegyric which certainly gives us the lowest ideas of that art in the reign of Philip le Bon; for it appears that, out of fifty days, his horse was lame for twenty-one, owing to this ingenious method of shoeing. As a mark of gratitude to the leader of the caravan, the esquire presents him with a pot of green ginger; and the caravan proceeds. Before it has advanced one day's journey, the esquire, however, deviates from the road, to pay his devoirs to a miraculous image of our Lady of Serdenay, which always sweats—not ordinary sudorific matter—but an oil of great ecclesiastical efficacy. While travelling with the caravan, he learnt to sit cross-legged, got drunk privately, and was nearly murdered by some Saracens, who discovered that he had money. In some parts of Syria, M. de la Brocquière met with an opinion, which must have been extremely favourable to the spirit of proselytism, in so very hot a country—an opinion that the infidels have a very bad smell, and that this is only to be removed by baptism. But as the baptism was according to the Greek ritual, by total immersion, Bertrandon seems to have a distant suspicion that this miracle may be resolved into the simple phenomenon of washing. He speaks well of the Turks, and represents them, to our surprise, as a very gay, laughing people. We thought Turkish gravity had been almost proverbial. The natives of the countries through which we passed pray (says he) for the conversion of Christians; and especially request that there may be never sent among them again such another terrible man as Godfrey of Boulogne. At Couhongue the caravan broke up; and here he quitted a Mameluke soldier, who had kept him company during the whole of the journey, and to whose courage and fidelity Europe, Philip le Bon, and Mr. Johnes of Hafod, are principally indebted for the preservation of the first esquire-carver.

'I bade adieu,' he says, 'to my Mameluke. This good man, whose name was Mohammed, had done me innumerable services. He was very charitable, and never refused alms when asked in the name of

God. It was through charity he had been so kind to me; and I must confess that, without his assistance, I could not have performed my journey without incurring the greatest danger; and that had it not been for his kindness, I should often have been exposed to cold and hunger, and much embarrassed with my horse.

'On taking leave of him, I was desirous of showing my gratitude; but he would not accept of any thing except a piece of our fine European cloth to cover his head, which seemed to please him much. He told me all the occasions that had come to his knowledge, on which, if it had not been for him, I should have run risks of being assassinated, and warned me to be very circumspect in my connections with the Saracens, for that there were among them some as wicked as the Franks. I write this to recall to my reader's memory, that the person who, from his love to God, did me so many and essential kindnesses, was a man not of our faith.'—(pp. 196, 197.)

For the rest of the journey, he travelled with the family of the leader of the caravan, without any occurrence more remarkable than those we have already noticed;—arrived at Constantinople, and passed through Germany to the court of Philip le Bon. Here his narrative concludes. Nor does the carver vouchsafe to inform us of the changes which time had made in the appetite of that great prince,—whether veal was more pleasing to him than lamb,—if his favourite morsels were still in request,—if animal succulence were as grateful to him as before the departure of the carver,—or if this semisanguineous partiality had given way to a taste for cinereous and torrefied meats. All these things the first esquire-carver might have said,—none of them he does say,—nor does Mr. Johnes of Hafod supply, by any antiquarian conjectures of his own, the distressing silence of the original. Saving such omissions, there is something pleasant in the narrative of this arch-divider of fowls. He is an honest, brave, liberal man; and tells his singular story with great brevity and plainness. We are obliged to Mr. Johnes for the amusement he has afforded us; and we hope he will persevere in his gentlemanlike, honourable, and useful occupations.

LETTER ON THE CURATE'S SALARY BILL.*

(EDINBURGH REVIEW, 1808.)

A Letter to the Right Honourable Spencer Perceval, on a Subject connected with his Bill, now under Discussion in Parliament, for improving the Situation of Stipendiary Curates. 8vo. Hatchard, London. 1808.

THE poverty of curates has long been a favourite theme with novelists, sentimental tourists, and elegiac poets. But notwithstanding the known accuracy of this class of philosophers, we cannot help suspecting that there is a good deal of misconception in the popular estimate of the amount of the evil.

A very great proportion of all the curacies in England are filled with men to whom the emolument is a matter of subordinate importance. They are filled by young gentlemen who have recently left college, who of course are able to subsist as they had subsisted for seven years before, and who are glad to have an opportunity, on any terms, of acquiring a practical familiarity with the duties of their profession. They move away from them to higher situations as vacancies occur; and make way for a new race of ecclesiastical apprentices. To those men, the smallness of the appointment is a grievance of no very great magnitude; nor is it fair with relation to them, to represent the ecclesiastical order as degraded by the indigence to which some of its members are condemned. With regard, again, to those who take curacies merely as a means of subsistence, and with the prospect of remaining permanently in that situation, it is certain that by far the greater part of them are persons born in a very humble rank in society, and accustomed to no greater opulence than that of an ordinary curate. There are scarcely any of those persons who have taken a degree in an university, and not very many who have resided there at all. Now the son of a small Welsh farmer,

* Now we are all dead, it may be amusing to state that I was excited to this article by Sir William Scott, who brought me the book in his pocket; and begged I would attend to it, carefully concealing his name; my own opinions happened entirely to agree with his.

who works hard every day for less than 40*l.* a year, has no great reason to complain of degradation or disappointment, if he get from 50*l.* to 100*l.* for a moderate portion of labour one day in seven. The situation, accordingly, is looked upon by these people as extremely eligible; and there is a great competition for curacies, even as they are now provided. The amount of the evil, then, as to the curates themselves, cannot be considered as very enormous, when there are so few who either actually feel, or are entitled to feel, much discontent on the subject. The late regulations about residence, too, by diminishing the total number of curates, will obviously throw that office chiefly into the hands of the well educated and comparatively independent young men, who seek for the situation rather for practice than profit, and do not complain of the want of emolument.

Still we admit it to be an evil, that the resident clergyman of a parish should not be enabled to hold a respectable rank in society from the regular emoluments of his office. But it is an evil which does not exist exclusively among curates; and which, wherever it exists, we are afraid is irremediable, without the destruction of the Episcopal church, or the augmentation of its patrimony. More than one-half of the livings in England are under 80*l.* a year; and the whole income of the church, including that of the bishops, if thrown into a common fund, would not afford above 180*l.* for each living. Unless Mr. Perceval, therefore, will raise an additional million or two for the church, there *must* be poor curates,—and poor rectors also; and unless he is to reduce the Episcopal hierarchy to the republican equality of our Presbyterian model, he must submit to very considerable inequalities in the distribution of this inadequate provision.

Instead of applying any of these remedies, however,—instead of proposing to increase the income of the church, or to raise a fund for its lowest servants by a *general* assessment upon those who are more opulent,—instead of even trying indirectly to raise the pay of curates, by raising their qualifications in respect of regular education, Mr. Perceval has been able, after long and profound study, to find no better cure for the endemic poverty of curates, than to ordain all rectors of a certain income to pay them one-fifth part of their emoluments, and to vest certain alarming powers in the bishops for the purpose of controlling their appointment. Now this scheme, it appears to

us, has all the faults which it is possible for such a scheme to have. It is unjust and partial in its principle,—it is evidently altogether and utterly inefficient for the correction of the evil in question,—and it introduces other evils infinitely greater than that which it vainly proposes to abolish.

To this project, however, for increasing the salary of curates, Mr. Perceval has been so long and so obstinately partial, that he returned to the charge in the last session of Parliament, for the third time; and experienced, in spite of his present high situation, the same defeat which had baffled him in his previous attempts.

Though the subject is gone by once more for the present, we cannot abstain from bestowing a little gentle violence to aid its merited descent into the gulf of oblivion, and to extinguish, if possible, that resurgent principle which has so often disturbed the serious business of the country, and averted the attention of the public from the great scenes that are acting in the world—to search for some golden medium between the selfishness of the sacred principal, and the rapacity of the sacred deputy.

If church property is to be preserved, that precedent is not without danger which disposes at once of a fifth of all the valuable livings in England. We do not advance this as an argument of any great importance against the bill, but only as an additional reason why its utility should be placed in the clearest point of view, before it can attain the assent of well-wishers to the English establishment.

Our first and greatest objection to such a measure, is the increase of power which it gives to the bench of bishops,—an evil which may produce the most serious effects, by placing the whole body of the clergy under the absolute control of men who are themselves so much under the influence of the crown. This, indeed, has been pretty effectually accomplished, by the late residence bill of Sir William Scott; and our objection to the present bill is, that it tends to augment that excessive power before conferred on the prelacy.

If a clergyman lives in a situation which is destroying his constitution,—he cannot exchange with a brother clergyman without the consent of the bishop; in whose hands, under such circumstances, his life and death are actually placed. If he wishes to cultivate a little land for his amusement or better support,—he cannot do it without the license of the bishop. If he wishes to spend the last three or four months with a de-

clining wife or child at some spot where better medical assistance can be procured,—he cannot do so without permission of the bishop. If he is struck with palsy, or racked with stone,—the bishop can confine him in the most remote village in England. In short, the power which the bishops at present possess over their clergy, is so enormous, that none but a fool or a madman would think of compromising his future happiness, by giving the most remote cause of offence to his diocesan. We ought to recollect, however, that the clergy constitute a body of 12 or 15,000 educated persons; that the whole concern of education devolves upon them; that some share of the talents and information which exist in the country must naturally fall to their lot; and that the complete subjugation of such a body of men cannot, in any point of view, be a matter of indifference to a free country.

It is in vain to talk of the good character of bishops. Bishops are men; not always the wisest of men; not always preferred for eminent virtues and talents, or for any good reason whatever known to the public. They are almost always devoid of striking and indecorous vices; but a man may be very shallow, very arrogant, and very vindictive, though a bishop; and pursue with unrelenting hatred a subordinate clergyman, whose principles he dislikes*, and whose genius he fears. Bishops, besides, are subject to the infirmities of old age, like other men; and in the decay of strength and understanding, will be governed as other men are, by daughters and wives, and whoever ministers to their daily comforts. We have no doubt that such cases sometimes occur; and produce, whenever they do occur, a very capricious administration of ecclesiastical affairs.† As the power of enforcing residence must be lodged somewhere, why not give the bishop a council, consisting of two-thirds ecclesiastics, and one-third laymen: and meeting at the same time as the sessions and deputy sessions;—the bishop's license for non-residence to issue, of course, upon their recommendations? Considering the vexatious bustle of a new, and the laxity of an aged bishop, we cannot but think that a diocese would be much more steadily administered under this system than by the present means.

* Bold language for the year 1808.

† I have seen in the course of my life as the mind of the prelate decayed, wife bishops, daughter bishops, butler bishops, and even cook and housekeeper bishops.

Examine the constitutional effects of the power now granted to the bench. What hinders a bishop from becoming in the hands of the court, a very important agent in all county elections? what clergyman would dare to refuse him his vote? But it will be said that no bishop will ever condescend to such sort of intrigues:—a most miserable answer to a most serious objection. The temptation is admitted,—the absence of all restraint; the dangerous consequences are equally admitted; and the only preservative is the personal character of the individual. If this style of reasoning were general, what would become of law, constitution, and every wholesome restraint which we have been accumulating for so many centuries? We have no intention to speak disrespectfully of constituted authorities; but when men can abuse power with impunity, and recommend themselves to their superiors by abusing it, it is but common sense to suppose that power will be abused; if it is, the country will hereafter be convulsed to its very entrails, in tearing away that power from the prelacy which has been so improvidently conferred upon them. It is useless to talk of the power they anciently possessed. They have never possessed it since England has been what it now is. Since we have enjoyed practically a free constitution, the bishops have, in point of fact, possessed little or no power of oppression over their clergy.

It must be remembered, however, that we are speaking only of probabilities: the fact may turn out to be quite the reverse; the power vested in the bench may be exercised for spiritual purposes only, and with the greatest moderation. We shall be extremely happy to find that this is the case; and it will reflect great honour upon those who have corrected the improvidence of the legislature by their own sense of propriety.

It is contended by the friends of this law, that the respectability of the clergy depends in some measure on their wealth; and that, as the rich bishop reflects a sort of worldly consequence upon the poor bishop, and the rich rector upon the poor rector;—so, a rich class of curates could not fail to confer a greater degree of importance upon that class of men in general. This is all very well, if you intend to raise up some new fund in order to enrich curates: but you say that the riches of some constitute the dignity of the whole; and then you immediately take away from the rector, the superfluous wealth which, according to your own method of reasoning, is to decorate and dignify the order of men to whom he belongs! The

bishops constitute the first class in the church; the beneficed clergy the second; the curates the last. Why are you to take from the second to give to the last? Why not as well from the first* to give to the second,—if you really mean to contend that the first and second are already too rich?

It is not true, however, that the class of rectors is generally either too rich, or even rich enough. There are 6000 livings below 80*l.* per annum, which is not very much above the average allowance of a curate. If every rector, however, who has more than 500*l.* is obliged to give a fifth part to a curate, there seems to be no reason why every bishop who has more than 1000*l.* should not give a fifth part among the poor rectors in his diocese. It is in vain to say this assessment upon rectors is reasonable and right, because they may reside and do duty themselves, and then they will not need a curate;—that their non-residence, in short, is a kind of delinquency for which they compound by this fine to the parish. If more than a half of the rectories in England are under 80*l.* a year, and some thousands of them under 40*l.*, pluralities are *absolutely necessary;* and clergymen, who have not the gift of ubiquity, *must* be non-resident at some of them. Curates, therefore, are not the deputies of negligent rectors;—they are an order of priests absolutely necessary in the present form of the Church of England: and a rector incurs no shadow of delinquency by employing one, more than the king does by appointing a lord-lieutenant of Ireland, or a commissioner to the General Assembly of the Church of Scotland, instead of doing the duty of these offices in person. If the legislature, therefore, is to interfere to raise the natural, *i. e.*, the actual wages of this order of men, at the expense of the more opulent ministers of the Gospel, there seems to be no sort of reason for exempting the bishops from their share in this pious contribution, or for refusing to make a similar one for the benefit of all rectors who have less than 100*l.* per annum.

The true reason, however, for exempting my lords the bishops from this imposition, is, that they have the privilege of voting upon all bills brought in by Mr. Perceval, and of materially affecting his comfort and security by their parliamentary control and influence. This, however, is to cure what you believe to be unjust, by means which you must know to be

* The first unfortunately make the laws.

unjust; to fly out against abuses which may be remedied without peril, and to connive at them when the attempt at a remedy is attended with political danger; to be mute and obsequious towards men who enjoy church property to the amount of 8 or 19,000*l.* per annum; and to be so scandalized at those who possess as many hundreds, that you must melt their revenues down into curacies, and save to the eye of political economy the spectacle of such flagrant inequality!

In the same style of reasoning, it may be asked why the lay improprietors are not compelled to advance the salary of their perpetual curacies, up to a fifth of their estates? The answer, too, is equally obvious—Many lay improprietors have votes in both houses of Parliament; and the only class of men this cowardly reformation attacks, is that which has no means of saying any thing in its own defence.

Even if the enrichment of curates were the most imperious of all duties, it might very well be questioned, whether a more unequal and pernicious mode of fulfilling it could be devised than that enjoined by this bill. Curacies are not granted for the life of the curate; but for the life or incumbency or good-liking of the rector. It is only rectors worth 500*l.* a-year who are compelled by Mr. Perceval to come down with a fifth to their deputy; and these form but a very small proportion of the whole non-resident rectors; so that the great multitude of curates must remain as poor as formerly,—and probably a little more discontented. Suppose, however, that one has actually entered on the enjoyment of 250*l.* *per annum.* His wants, and his habits of expense, are enlarged by this increase of income. In a year or two his rector dies, or exchanges his living; and the poor man is reduced, by the effects of comparison, to a much worse state than before the operation of the bill. Can any person say that this is a wise and effectual mode of ameliorating the condition of the lower clergy? To us it almost appears to be invented for the express purpose of destroying those habits of economy and caution, which are so indispensably necessary to their situation. If it is urged that the curate, knowing his wealth only to be temporary, will make use of it as a means of laying up a fund for some future day,—we admire the good sense of the man: but what becomes of all the provisions of the bill? what becomes of that opulence which is to confer respectability upon all around it, and to radiate even upon the curates of Wales? The money

was expressly given to blacken his coat,—to render him convex and rosy,—to give him a sort of pseudo-rectorial appearance, and to dazzle the parishioners at the rate of 250*l.* *per annum.* The poor man, actuated by those principles of common sense which are so contrary to all the provisions of the bill, chooses to make a good thing of it, because he knows it will not last; wears his old coat, rides his lean horse, and defrauds the class of curates of all the advantages which they were to derive from the sleekness and splendour of his appearance.

It is of some importance to the welfare of a parish, and the credit of the church, that the curate and his rector should live upon good terms together. Such a bill, however, throws between them elements of mistrust and hatred, which must render their agreement highly improbable. The curate would be perpetually prying into every little advance which the rector made upon his tithes, and claiming his proportionate increase. No respectable man could brook such inquisition; some, we fear, would endeavour to prevent its effects by clandestine means. The church would be a perpetual scene of disgraceful animosities; and the ears of the bishop never free from the clamours of rapacity and irritation.

It is some slight defect in such a bill, that it does not proportion reward to the labour done, but to the wealth of him for whom it is done. The curate of a parish containing 400 persons, may be paid as much as another person who has the care of 10,000; for, in England, there is very little proportion between the value of a living, and the quantity of duty to be performed by its clergyman.

The bill does not attain its object in the best way. Let the bishop refuse to allow of any curate upon a living above 500*l.* *per annum*, who is not a Master of Arts of one of the universities. Such curates will then be obtained at a price which will render it worth the while of such men to take curacies; and such a degree and situation in society will secure good curates much more effectually than the complicated provisions of this bill: for, *primâ facie*, it appears to us much more probable, that a curate should be respectable who is a Master of Arts in some English university, than if all that we knew about him was, that he had a fifth of the profits of the living. The object is, to fix a good clergyman in a parish. The law will not trust the non-resident rector to fix both the price and the person;

but fixes the price, and then leaves him the choice of the person. Our plan is, to fix upon the description of person, and then to leave the price to find its level; for the good price by no means implies a good person, but the good person will be sure to get a good price.

Where the living will admit of it, we have commonly observed that the English clergy are desirous of putting in a proper substitute. If this is so, the bill is unnecessary; for it proceeds on the very contrary supposition, that the great mass of opulent clergy consult nothing but economy in the choice of their curates.

It is very galling and irksome to any class of men to be compelled to disclose their private circumstances; a provision contained in and absolutely necessary to this bill, under which the diocesan can always compel the minister to disclose the full value of his living.

After all, however, the main and conclusive objection to the bill is, that its provisions are drawn from such erroneous principles, and betray such gross ignorance of human nature, that though it would infallibly produce a thousand mischiefs foreseen and not foreseen, it would evidently have no effect whatsoever in raising the salaries of curates. We do not put this as a case of common buyer and seller; we allow that the parish is a third party, having an interest;* we fully admit *the right* of the legislature to interfere for their relief. We only contend, that such interference would be necessarily altogether ineffectual, so long as men can be found capable of doing the duty of curates, and willing to do it for less than the statutory *minimum*.

If there is a competition of rectors for curates, it is quite unnecessary and absurd to make laws in favour of curates. The demand for them will do their business more effectually than the law. If, on the contrary (as the fact plainly is,) there is a competition of curates for employment, is it possible to prevent this order of men from labouring under the regulation price? Is it possible to prevent a curate from pledging himself to his rector, that he will accept only half the legal salary, if

* We remember Horace's description of the misery of a parish where there is no resident clergyman.

> ———'Illacrymabiles
> Urgentur, ignotique longâ
> Nocte, *carent quia vate sacro.*'

he is so fortunate as to be preferred among an host of rivals, who are willing to engage on the same terms? You may make these contracts illegal: What then? Men laugh at such prohibitions; and they always become a dead letter. In nine instances out of ten, the contract would be honourably adhered to; and then what is the use of Mr. Perceval's law? Where the contract was not adhered to, whom would the law benefit? —A man utterly devoid of every particle of honour and good faith. And this is the new species of curate, who is to reflect dignity and importance upon his poorer brethren! The law encourages breach of faith between gambler and gambler; it arms broker against broker:—but it cannot arm clergyman against clergyman. Did any human being before, ever think of disseminating such a principle among the teachers of Christianity? Did any ecclesiastic law, before this, ever depend for its success upon the mutual treachery of men who ought to be examples to their fellow-creatures of every thing that is just and upright.

We have said enough already upon the absurdity of punishing all rich rectors for non-residence, as for a presumptive delinquency. A law is already passed, fixing what shall be legal and sufficient causes for non-residence. Nothing can be more unjust, then, than to punish that absence which you admit to be legal. If the causes of absence are too numerous, lessen them; but do not punish him who has availed himself of their existence. We deny, however, that they are too numerous. There are 6000 livings out of 11,000 in the English church under 80*l. per annum:* many of these 20*l.*, many 30*l. per annum.* The whole task of education at the university, public schools, private families, and in foreign travel, devolves upon the clergy. A great part of the literature of their country is in their hands. Residence is a very proper and necessary measure; but, considering all these circumstances, it requires a great deal of moderation and temper to carry it into effect, without doing more mischief than good. At present, however, the torrent sets the other way. Every lay plunderer, and every fanatical coxcomb, is forging fresh chains for the English clergy; and we should not be surprised, in a very little time, to see them absenting themselves from their benefices by a kind of day-rule, like prisoners in the king's bench. The first bill, which was brought in by Sir William Scott, always saving and excepting the power

granted to the bishops, is full of useful provisions, and characterized throughout by great practical wisdom. We have no doubt but that it has, *upon the whole*, improved the condition of the English church. Without caution, mildness, or information, however, it was peculiarly unfortunate to follow such a leader. We are extremely happy the bill was rejected. We have seldom witnessed more of ignorance and error stuffed and crammed into so very narrow a compass. Its origin, we are confident, is from the Tabernacle; and its consequences would have been, to have sown the seeds of discord and treachery in an ecclesiastical constitution, which, under the care of prudent and honest men, may always be rendered a source of public happiness.

One glaring omission in this bill we had almost forgotten to mention. The chancellor of the exchequer has entirely neglected to make any provision for that very meritorious class of men, the *lay curates*, who do all the business of those offices, of which lazy and non-resident placemen receive the emoluments. So much delicacy and conscience, however, are here displayed on the subject of pocketing unearned emoluments, that we have no doubt the moral irritability of this servant of the crown will speedily urge him to a species of reform, of which he may be the object as well as the mover.

PROCEEDINGS OF THE SOCIETY FOR THE SUPPRESSION OF VICE. (Edinburgh Review, 1809.)

Statement of the Proceedings of the Society for the Suppression of Vice, from July 9 *to November* 12, *read at their General Meeting, held November* 12, 1804. *With an Appendix, containing the Plan of the Society, &c. &c. &c.* London. 1804.

An Address to the Public from the Society for the Suppression of Vice, instituted in London 1802. *Part the Second. Containing an Account of the Proceedings of the Society from its original Institution.* London. 1804.

A society that holds out as its object the suppression of vice, must at first sight conciliate the favour of every respectable person; and he who objects to an institution calculated apparently to do so much good, is bound to give very clear and satisfactory reasons for his dissent from so popular an opinion. We certainly have, for a long time, had doubts of its utility; and now think ourselves called upon to state the grounds of our distrust.

Though it were clear that individual informers are useful auxiliaries to the administration of the laws, it would by no means follow that these informers should be allowed to combine,—to form themselves into a body,—to make a public purse,—and to prosecute under a common name. An informer, whether he is paid by the week, like the agents of this society—or by the crime, as in common cases—is, in general, a man of a very indifferent character. So much fraud and deception are necessary for carrying on his trade—it is so odious to his fellow subjects,—that no man of respectability will ever undertake it. It is evidently impossible to make such a character otherwise than odious. A man who receives weekly pay for prying into the transgressions of mankind, and bringing them to consequent punishment, will always be hated by mankind; and the office must fall to the lot of some men of desperate fortunes and ambiguous character. The multi-

plication, therefore, of such officers, and the extensive patronage of such characters, may, by the management of large and opulent societies, become an evil nearly as great as the evils they would suppress. The alarm which a private and disguised accuser occasions in a neighbourhood, is known to be prodigious, not only to the guilty, but to those who may be at once innocent, and ignorant, and timid. The destruction of social confidence is another evil, the consequence of information. An informer gets access to my house or family,—worms my secret out of me,—and then betrays me to the magistrate. Now, all these evils may be tolerated in a small degree, while, in a greater degree, they would be perfectly intolerable. Thirty or forty informers roaming about the metropolis, may frighten the mass of offenders a little, and do some good: ten thousand informers would either create an insurrection, or totally destroy the confidence and cheerfulness of private life. Whatever may be said, therefore, of the single and insulated informer, it is quite a new question when we come to a corporation of informers supported by large contributions. The one may be a good, the other a very serious evil; the one legal, the other wholly out of the contemplation of law,—which often, and very wisely, allows individuals to do what it forbids to many individuals assembled.

If once combination is allowed for the suppression of vice, where are its limits to be? Its capital may as well consist of 100,000*l. per annum*, as of a thousand: its numbers may increase from a thousand subscribers, which this society, it seems, had reached in its second year, to twenty thousand: and, in that case, what accused person of an inferior condition of life would have the temerity to stand against such a society? Their mandates would very soon be law; and there is no compliance into which they might not frighten the common people, and the lower orders of tradesmen. The idea of a society of gentlemen, calling themselves an association for the suppression of vice, would alarm any small offender to a degree that would make him prefer any submission to any resistance. He would consider the very fact of being accused by them, as almost sufficient to ruin him.

An individual accuser accuses at his own expense; and the risk he runs is a good security that the subject will not be harassed by needless accusations,—a security which, of course, he cannot have against such a society as this, to whom pecu-

niary loss is an object of such little consequence. It must never be forgotten, that this is not a society for *punishing* people who have been found to transgress the law, but for *accusing* persons of transgressing the law; and that before trial, the accused person is to be considered as innocent, and is to have every fair chance of establishing his innocence. He must be no common defendant, however, who does not contend against such a society with very fearful odds;—the best counsel engaged for his opponents,—great practice in the particular court and particular species of cause,—witnesses thoroughly hackneyed in a court of justice,—and an unlimited command of money. It by no means follows, that the legislature, in allowing individuals to be informers, meant to subject the accused person to the superior weight and power of such societies. The very influence of names must have a considerable weight with the jury. Lord Dartmouth, Lord Radstock, and the Bishop of Durham, *versus* a Whitechapel butcher or a publican! Is this a fair contest before a jury? It is not so even in London; and what must it be in the country, where a society for the suppression of vice may consist of all the principal persons in the neighbourhood? These societies are now established in York, in Reading, and in many other large towns. Wherever this is the case, it is far from improbable that the same persons, at the Quarter or Town Sessions, may be both judges and accusers; and still more fatally so, if the offence is tried by a special jury. This is already most notoriously the case in societies for the preservation of game. They prosecute a poacher;—the jury is special; and the poor wretch is found guilty by the very same persons who have accused him.

If it is lawful for respectable men to combine for the purpose of turning informers, it is lawful for the lowest and most despicable race of informers to do the same thing; and then it is quite clear that every species of wickedness and extortion would be the consequence. We are rather surprised that no society of perjured attorneys and fraudulent bankrupts has risen up in this metropolis, for the suppression of vice. A chairman, deputy-chairman, subscriptions, and an annual sermon would give great dignity to their proceedings; and they would soon begin to take some rank in the world.

It is true that it is the duty of grand juries to inform against vice; but the law knows the probable number of grand jury-

men, the times of their meeting, and the description of persons of whom they consist. Of voluntary societies it can know nothing,—their numbers, their wealth, or the character of their members. It may therefore trust to a grand jury what it would by no means trust to an unknown combination. A vast distinction is to be made, too, between official duties and voluntary duties. The first are commonly carried on with calmness and moderation; the latter often characterized, in their execution, by rash and intemperate zeal.

The present society receives no members but those who are of the Church of England. As we are now arguing the question generally, we have a right to make any supposition. It is equally free, therefore, upon general principles, for a society of sectarians to combine and exclude members of the Church of England; and the suppression of vice may thus come in aid of Methodism, Jacobinism, or of any set of principles, however perilous, either to church or state. The present society may, perhaps, consist of persons whose sentiments on these points are rational and respectable. Combinations, however, of this sort may give birth to something far different; and such a supposition is the fair way of trying the question.

We doubt if there be not some mischief in averting the fears and hopes of the people from the known and constituted authorities of the country to those self-created powers;—a society that punishes in the Strand,—another which rewards at Lloyd's Coffee-house! If these things get to any great height, they throw an air of insignificance over those branches of the government to whom these cares properly devolve, and whose authority is by these means assisted, till it is superseded. It is supposed that a project must necessarily be good, because it is intended for the aid of law and government. At this rate, there should be a society in aid of the government, for procuring intelligence from foreign parts, with accredited agents all over Europe. There should be a voluntary transport board, and a gratuitous victualling office. There should be a duplicate, in short, of every department of the state,—the one appointed by the king, and the other by itself. There should be a real Lord Glenbervie in the woods and forests,—and with him a monster, a voluntary Lord Glenbervie, serving without pay, and guiding *gratis*, with secret counsel, the axe of his prototype. If it be asked, who are the constituted authorities who are legally appointed to watch over morals, and

whose functions the society usurp? our answer is, that there are in England about 12,000 clergy, not unhandsomely paid for persuading the people, and about 4000 justices, 30 grand juries, and 40,000 constables, whose duty and whose inclination it is to compel them to do right. Under such circumstances, a voluntary moral society does indeed seem to be the purest result of volition; for there certainly is not the smallest particle of necessity mingled with its existence.

It is hardly possible that a society for the suppression of vice can ever be kept within the bounds of good sense and moderation. If there are many members who have really become so from a feeling of duty, there will necessarily be some who enter the society to hide a bad character, and others whose object it is to recommend themselves to their betters by a sedulous and bustling inquisition into the immoralities of the public. The loudest and noisiest suppressors will always carry it against the more prudent part of the community; the most violent will be considered as the most moral; and those who see the absurdity will, from the fear of being thought to encourage vice, be reluctant to oppose it.

It is of great importance to keep public opinion on the side of virtue. To their authorized and legal correctors, mankind are, on common occasions, ready enough to submit; but there is something in the self-erection of a voluntary magistracy which creates so much disgust, that it almost renders vice popular, and puts the offence at a premium. We have no doubt but that the immediate effect of a voluntary combination for the suppression of vice, is an involuntary combination in favour of the vices to be suppressed; and this is a very serious drawback from any good of which such societies may be the occasion; for the state of morals, at any one period, depends much more upon opinion than law; and to bring odious and disgusting auxiliaries to the aid of virtue, is to do the utmost possible good to the case of vice. We regret that mankind are as they are; and we sincerely wish, that the species at large were as completely devoid of every vice and infirmity as the president, vice-president and committee of the suppressing society; but, till they are thus regenerated, it is of the greatest consequence to teach them virtue and religion in a manner which will not make them hate both the one and the other. The greatest delicacy is required in the application of violence to moral and religious sentiment. We forget that the

object is, not to produce the outward compliance, but to raise up the inward feeling, which secures the outward compliance. You may drag men into church by main force, and prosecute them for buying a pot of beer,—and cut them off from the enjoyment of a leg of mutton;—and you may do all this, till you make the common people hate Sunday, and the clergy, and religion, and every thing which relates to such subjects. There are many crimes, indeed, where persuasion cannot be waited for, and where the untaught feelings of all men go along with the violence of the law. A robber and a murderer must be knocked on the head like mad dogs; but we have no great opinion of the possibility of indicting men into piety, or of calling in the quarter sessions to the aid of religion. You may produce outward conformity by these means; but you are so far from producing (the only thing worth producing) the inward feeling, that you incur a great risk of giving birth to a totally opposite sentiment.

The violent modes of making men good, just alluded to, have been resorted to at periods when the science of legislation was not so well understood as it now is; or when the manners of the age have been peculiarly gloomy or fanatical. The improved knowledge, and the improved temper of later times, push such laws into the back ground, and silently repeal them. A suppressing society, hunting every where for penalty and information, has a direct tendency to revive ancient ignorance and fanaticism,—and to re-enact laws which, if ever they ought to have existed at all, were certainly calculated for a very different style of manners, and a very different degree of information. To compel men to go to church, under a penalty, appears to us to be absolutely absurd. The bitterest enemy of religion will necessarily be that person who is driven to a compliance with its outward ceremonies, by informers and justices of the peace. In the same manner, any constable who hears another swear an oath, has a right to seize him, and carry him before a magistrate, where he is to be fined so much for each execration. It is impossible to carry such laws into execution: and it is lucky that it is impossible,—for their execution would create an infinitely greater evil than it attempted to remedy. The common sense and common feeling of mankind, if left to themselves, would silently repeal such laws; and it is one of the evils of these societies, that they render absurdity eternal, and ignorance indestructible. Do not let us be misun-

derstood: upon the object to be accomplished, there can be but one opinion;—it is only upon the means employed, that there can be the slightest difference of sentiment. To go to church is a duty of the greatest possible importance; and on the blasphemy and vulgarity of swearing, there can be but one opinion. But such duties are not the objects of legislation; they must be left to the general state of public sentiment; which sentiment must be influenced by example, by the exertions of the pulpit and the press, and, above all, by education. The fear of God can never be taught by constables, nor the pleasures of religion be learnt from a common informer.

Beginning with the best intentions in the world, such societies must, in all probability, degenerate into a receptacle for every species of tittle-tattle, impertinence, and malice. Men, whose trade is rat-catching, love to catch rats; the bug-destroyer seizes on his bug with delight; and the suppressor is gratified by finding his vice. The last soon becomes a mere tradesman like the others; none of them moralize, or lament that their respective evils should exist in the world. The public feeling is swallowed up in the pursuit of a daily occupation, and in the display of a technical skill. Here, then, is a society of men, who invite accusation,—who receive it (almost unknown to themselves) with pleasure,—and who, if they hate dulness and inoccupation, can have very little pleasure in the innocence of their fellow-creatures. The natural consequence of all this is, that (besides that portion of rumour which every member contributes at the weekly meeting), their table must be covered with anonymous lies against the characters of individuals. Every servant discharged from his master's service, —every villain who hates the man he has injured,—every cowardly assassin of character,—now knows where his accusations will be received, and where they cannot fail to produce some portion of the mischevous effects which he wishes. The very first step of such a society should be, to declare, in the plainest manner, that they would never receive any anonymous accusation. This would be the only security to the public, that they were not degrading themselves into a receptacle for malice and falsehood. Such a declaration would inspire some species of confidence; and make us believe that their object was neither the love of power, nor the gratification of uncharitable feelings. The society for the suppression, however, have done no such thing. They request, indeed, the signature

of the informers whom they invite; but they do not (as they ought) make that signature an indispensable condition.

Nothing has disgusted us so much in the proceedings of this society, as the control which they exercise over the amusements of the poor. One of the specious titles under which this legal meanness is gratified is, *Prevention of Cruelty to Animals.*

Of cruelty to animals, let the reader take the following specimens:—

Running an iron hook in the intestines of an animal; presenting this first animal to another as his food; and then pulling this second creature up, and suspending him by the barb in his stomach.

Riding a horse till he drops, in order to see an innocent animal torn to pieces by dogs.

Keeping a poor animal upright for many weeks, to communicate a peculiar hardness to his flesh.

Making deep incisions into the flesh of another animal, while living, in order to make the muscles more firm.

Immersing another animal, while living, in hot water.

Now we do fairly admit, that such abominable cruelties as these are worthy of the interference of the law: and that the society should have punished them, cannot be matter of surprise to any feeling mind.—But stop, gentle reader! these cruelties are the cruelties of the suppressing committee, not of the poor. You must not think of punishing these.—The first of these cruelties passes under the pretty name of *angling;*—and therefore there can be no harm in it—the more particularly as the president himself has one of the best preserved trout streams in England.—The next is *hunting;*—and as many of the vice-presidents and of the committee hunt, it is not possible there can be any cruelty in hunting.* The next is, a process for making *brawn*—a dish never tasted by the

* 'How reasonable creatures' (says the society) 'can enjoy a pastime which is the cause of such sufferings to brute animals, or how they can consider themselves entitled, for their own amusement, to stimulate those animals, by means of the antipathies which Providence has thought proper to place between them, to worry and tear, and often to destroy each other, it is difficult to conceive. So inhuman a practice, by a retribution peculiarly just, tends obviously to render the human character brutal and ferocious,' &c. &c. (*Address*, p. 71, 72.) We take it for granted, that the reader sees clearly that no part of this description can possibly apply to the case of *hunting.*

poor, and therefore not to be disturbed by indictment. The fourth is the mode of *crimping* cod; and the fifth of boiling lobsters; all high-life cruelties, with which a justice of the peace has no business to meddle. The real thing which calls forth the sympathies, and harrows up the soul, is to see a number of boisterous artisans baiting a bull, or a bear; not a savage hare, or a carnivorous stag,—but a poor, innocent, timid bear; —not pursued by magistrates, and deputy lieutenants, and men of education,—but by those who must necessarily seek their relaxation in noise and tumultuous merriment,—by men whose feelings are blunted, and whose understanding is wholly devoid of refinement. The society detail, with symptoms of great complacency, their detection of a bear-beating in Blackboy Alley, Chick Lane, and the prosecution of the offenders before a magistrate. It appears to us, that nothing can be more partial and unjust than this kind of proceedings. A man of ten thousand a year may worry a fox as much as he pleases,—may encourage the breed of a mischievous animal on purpose to worry it; and a poor labourer is carried before a magistrate for paying sixpence to see an exhibition of courage between a dog and a bear! Any cruelty may be practised to gorge the stomachs of the rich,—none to enliven the holidays of the poor. We venerate those feelings which really protect creatures susceptible of pain, and incapable of complaint. But heaven-born pity, now-a-days, calls for the income tax, and the court guide; and ascertains the rank and fortune of the tormentor before she weeps for the pain of the sufferer. It is astonishing how the natural feelings of mankind are distorted by false theories. Nothing can be more mischievous than to say, that the pain inflicted by the dog of a man of quality is not (when the strength of the two animals is the same) equal to that produced by the cur of a butcher. Haller, in his Pathology, expressly says, *that the animal bitten knows no difference in the quality of the biting animal's master;* and it is now the universal opinion among all enlightened men, that the misery of the brawner would be very little diminished, if he could be made sensible that he was to be eaten up only by persons of the first fashion. The contrary supposition seems to us to be absolute nonsense; it is the desertion of the true *Baconian* philosophy, and the substitution of mere unsupported conjecture in its place. The trespass, however, which calls forth all the energies of a suppressor, is the sound of a fiddle.

That the common people are really enjoying themselves, is now beyond all doubt: and away rush secretary, president, and committee, to clap the cotillon into the compter, and to bring back the life of the poor to its regular standard of decorous gloom. The gambling houses of St. James's remain untouched. The peer ruins himself and his family with impunity; while the Irish labourer is privately whipped for not making a better use of the excellent moral and religious education which he has received in the days of his youth!

It is not true, as urged by the society, that the vices of the poor are carried on in houses of public resort, and those of the rich in their own houses. The society cannot be ignorant of the innumerable gambling houses resorted to by men of fashion. Is there one they have suppressed, or attempted to suppress? Can any thing be more despicable than such distinctions as these? Those who make them seem to have for other persons' vices all the rigour of the ancient Puritans—without a particle of their honesty, or their courage. To suppose that any society will ever attack the vices of people of fashion, is wholly out of the question. If the society consisted of tradesmen, they would infallibly be turned off by the vicious customers whose pleasures they interrupted: and what gentlemen so fond of suppressing, as to interfere with the vices of good company, and inform against persons who were really genteel? He knows very well that the consequence of such interference would be a complete exclusion from elegant society; that the upper classes could not and would not endure it; and that he must immediately lose his rank in the world, if his zeal subjected fashionable offenders to the slightest inconvenience from the law. Nothing, therefore, remains, but to rage against the Sunday dinners of the poor, and to prevent a bricklayer's labourer from losing, on the seventh day, that beard which has been augmenting the other six. We see at the head of this society the names of several noblemen, and of other persons moving in the fashionable world. Is it possible they can be ignorant of the innumerable offences against the law and morality which are committed by their own acquaintances and connections? Is there one single instance where they have directed the attention of the society to this higher species of suppression, and sacrificed men of consideration to that zeal for virtue which watches so acutely over the vices of the poor? It would give us very little pleasure to see

a duchess sent to the poultry compter; but if we saw the society flying at such high game, we should at least say they were honest and courageous, whatever judgment we might form of their good sense. At present they should denominate themselves a society for suppressing the vices of persons whose income does not exceed 500*l. per annum;* and then, to put all classes upon an equal footing, there must be another society of barbers, butchers, and bakers, to return to the higher classes that moral character, by which they are so highly benefited.

To show how impossible it is to keep such societies within any kind of bounds, we shall quote a passage respecting circulating libraries, from their proceedings.

'Your committee have good reasons for believing, that the circulation of their notices among the printsellers, warning them against the sale or exhibition of indecent representations, has produced, and continues to produce, the best effects.

'But they have to lament that the extended establishments of circulating libraries, however useful they may be, in a variety of respects, to the easy and general diffusion of knowledge, are extremely injurious to morals and religion, by the indiscriminate admission which they give to works of a prurient and immoral nature. It is a toilsome task to any virtuous and enlightened mind, to wade through the catalogues of these collections, and much more to select such books from them as have only an apparent bad tendency. But your committee being convinced that their attention ought to be directed to those institutions which possess such powerful and numerous means of poisoning the minds of young persons, and especially of the female youth, have therefore begun to make some endeavours towards their better regulation.'—*Statement of the Proceedings for* 1804, pp. 11, 12.

In the same spirit, we see them writing to a country magistrate in Devonshire, respecting a wake advertised in the public papers. Nothing can be more presumptuous than such conduct, or produce, in the minds of impartial men, a more decisive impression against the society.

The natural answer from the members of the society (the only answer they have ever made to the enemies of their institution) will be, that we are lovers of vice,—desirous of promoting indecency, of destroying the Sabbath, and of leaving mankind to the unrestrained gratification of their passions. We have only very calmly to reply, that we are neither so stupid nor so wicked as not to concur in every scheme which has for its object the preservation of rational religion and sound morality;—but the scheme must be well concerted,—

and those who are to carry it into execution must deserve our confidence, from their talents and their character. Upon religion and morals depends the happiness of mankind;—but the fortune of knaves and the power of fools are sometimes made to rest on the same apparent basis; and we will never (if we can help it) allow a rogue to get rich, or a blockhead to get powerful, under the sanction of these awful words. We do not by any means intend to apply these contemptuous epithets to the Society for the Suppression. That there are among their number some very odious hypocrites, is not impossible; that many men who believe they come there from the love of virtue, do really join the society from the love of power, we do not doubt: but we see no reason to doubt that the great mass of subscribers consists of persons who have very sincere intentions of doing good. That they have, in some instances, done a great deal of good, we admit with the greatest pleasure. We believe, that in the hands of truly honest, intrepid, and above all, discreet men, such a society might become a valuable institution, improve in some degree the public morals, and increase the public happiness. So many qualities, however, are required to carry it on well,—the temptations to absurdity and impertinence are so very great,—that we ever despair of seeing our wishes upon this subject realized. In the present instance, our object has been to suppress the arrogance of suppressors,—to keep them within due bounds,—to show them that to do good requires a little more talent and reflection than they are aware off,—and, above all, to impress upon them that true zeal for virtue knows no distinction between the rich and the poor; and that the cowardly and the mean can never be the true friends of morality, and the promoters of human happiness. If they attend to these rough doctrines, they will ever find in the writers of this journal their warmest admirers, and their most sincere advocates and friends.

CHARACTERS OF FOX. (Edinburgh Review, 1809.)

Characters of the late Charles James Fox. By Philopatris Varvicensis. 2 vols. 8vo.

This singular work consists of a collection of all the panegyrics passed upon Mr. Fox, after his decease, in periodical publications, speeches, sermons, or elsewhere,—in a panegyric upon Mr. Fox by Philopatris himself,—and in a volume of notes by the said Philopatris upon the said panegyric.

Of the panegyrics, that by Sir James Mackintosh appears to us to be by far the best. It is remarkable for good sense, acting upon a perfect knowledge of his subject, for simplicity, and for feeling. Amid the languid or turgid efforts of mediocrity, it is delightful to notice the skill, attention, and resources, of a superior man,—of a man, too, who seems to feel what he writes,—who does not aim at conveying his meaning in rhetorical and ornamented phrases, but who uses plain words to express strong sensations. We cannot help wishing, indeed, that Sir James Mackintosh had been more diffuse upon the political character of Mr. Fox, the great feature of whose life was the long and unwearied opposition which he made to the low cunning, the profligate extravagance, the sycophant mediocrity, and the stupid obstinacy of the English court.

To estimate the merit and the difficulty of this opposition, we must remember the enormous influence which the crown, through the medium of its patronage, exercises in the remotest corners of the kingdom,—the number of subjects whom it pays,—the much greater number whom it keeps in a state of expectation,—and the ferocious turpitude of those mercenaries whose present profits and future hopes are threatened by honest, and exposed by eloquent men. It is the easiest of all things, too, in this country, to make Englishmen believe that those who oppose the government wish to ruin the country. The English are a very busy people; and, with all the faults of their governors, they are still a very happy people. They

have, as they ought to have, a perfect confidence in the administration of justice. The rights which the different classes of mankind exercise the one over the other are arranged upon equitable principles. Life, liberty and property are protected from the violence and caprice of power. The visible and immediate stake, therefore, for which English politicians play, is not large enough to attract the notice of the people, and to call them off from their daily occupations, to investigate thoroughly the characters and motives of men engaged in the business of legislation. The people can only understand, and attend to the last results of a long series of measures. They are impatient of the details which lead to these results; and it is the easiest of all things to make them believe that those who insist upon such details are actuated only by factious motives. We are all now groaning under the weight of taxes: but how often was Mr. Fox followed by the curses of his country for protesting against the two wars which have loaded us with these taxes?—the one of which wars has made America independent, and the other rendered France omnipotent. The case is the same with all the branches of public liberty. If the broad and palpable question were, whether every book which issues from the press should be subjected to the license of a general censor, it would be impossible to blacken the character of any man who, so called upon, defended the liberty of publishing opinions. But, when the attorney-general for the time being ingratiates himself with the court, by nibbling at this valuable privilege of the people, it is very easy to treat hostility to his measures as a minute and frivolous opposition to the government, and to persuade the mass of mankind that it is so. In fact, when a nation has become free, it is extremely difficult to persuade them that their freedom is only to be preserved by perpetual and minute jealousy. They do not observe that there is a constant, perhaps an unconscious, effort on the part of their governors, to diminish, and so ultimately to destroy, that freedom. They stupidly imagine that what is, will always be; and, contented with the good they have already gained, are easily persuaded to suspect and vilify those friends—the object of whose life it is to preserve that good, and to increase it.

It was the lot of Mr. Fox to fight this battle for the greater part of his life; in the course of which time he never was seduced by the love of power, wealth nor popularity, to sacri-

fice the happiness of the many to the interests of the few. He rightly thought, that kings, and all public officers, were instituted only for the good of those over whom they preside; and he acted as if this conviction was always present to his mind; disdaining and withstanding that idolatrous tendency of mankind, by which they so often not only suffer, but invite ruin from that power which they themselves have wisely created for their own happiness. He loved, too, the happiness of his countrymen more than their favour; and while others were exhausting the resources, by flattering the ignorant prejudices and foolish passions of the country, Mr. Fox was content to be odious to the people, so long as he could be useful also. It will be long before we witness again such pertinacious opposition to the alarming power of the crown, and to the follies of our public measures, the necessary consequence of that power. That such opposition should ever be united again with such extraordinary talents, it is, perhaps, in vain to hope.

One little exception to the eulogium of Sir James Mackintosh upon Mr. Fox, we cannot help making. We are no admirers of Mr. Fox's poetry. His *Vers de Société* appears to us flat and insipid. To write verses was the only thing which Mr. Fox ever attempted to do, without doing it well. In that single instance he seems to have mistaken his talent.

Immediately after the collection of panegyrics which these volumes contain, follows the eulogium of Mr. Fox by Philopatris himself; and then a volume of notes upon a variety of topics which this eulogium has suggested. Of the laudatory talents of this Warwickshire patriot, we shall present our readers with a specimen.

'Mr. Fox, though not an adept in the use of political wiles, was very unlikely to be the dupe of them. He was conversant in the ways of man, as well as in the contents of books. He was acquainted with the peculiar language of states, their peculiar forms, and the grounds and effects of their peculiar usages. From his earliest youth, he had investigated the science of politics in the greater and the smaller scale; he had studied it in the records of history, both popular and rare—in the conferences of ambassadors—in the archives of royal cabinets—in the minuter detail of memoirs—and in collected or straggling anecdotes of the wrangles, intrigues, and cabals, which, springing up in the secret recesses of courts, shed their baneful influence on the determinations of sovereigns, the fortune of favourites, and the tranquillity of kingdoms. But that statesmen of all ages, like priests of all religions, are in all respects alike, is a doctrine the propagation of which he left, as an inglorious privilege, to the misan-

thrope, to the recluse, to the factious incendiary, and to the unlettered multitude. For himself, he thought it no very extraordinary stretch of penetration or charity, to admit that human nature is every where nearly as capable of emulation in good, as in evil. He boasted of no very exalted heroism, in opposing the calmness and firmness of conscious integrity to the shuffling and slippery movements, the feints in retreat, and feints in advance, the dread of being over-reached, or detected in attempts to over-reach, and all the other humiliating and mortifying anxieties of the most accomplished proficients in the art of diplomacy. He reproached himself for no guilt, when he endeavoured to obtain that respect and confidence which the human heart unavoidably feels in its intercourse with persons who neither wound our pride, nor take aim at our happiness, in a war of hollow and ambiguous words. He was sensible of no weakness in believing that politicians, who, after all, "know only as they are known," may, like other human beings, be at first the involuntary creatures of circumstances, and seem incorrigible from the want of opportunities or incitements to correct themselves; that, bereft of the pleas usually urged in vindication of deceit, by men who are fearful of being deceived, they, in their official dealings with him, would not wantonly lavish the stores they had laid up for huckstering in a traffic, which, ceasing to be profitable, would begin to be infamous; and that, possibly, here and there, if encouraged by example, they might learn to prefer the shorter process, and surer results of plain dealing, to the delays, the vexations, and the uncertain or transient success, both of old-fashioned and new-fangled chicanery.'—(I. 209—211.)

It is impossible to read this singular book without being everywhere struck with the lofty and honourable feelings, the enlightened benevolence, and sterling honesty with which it abounds. Its author is everywhere the circumspect friend of those moral and religious principles upon which the happiness of society rests. Though he is never timid, nor prejudiced, nor bigoted, his piety, not prudish and full of antiquated and affected tricks, presents itself with an earnest aspect, and in a manly form; obedient to reason, prone to investigation, and dedicated to honest purposes. The writer, a clergyman, speaks of himself as a very independent man, who has always expressed his opinions without any fear of consequences, or any hope of bettering his condition. We sincerely believe he speaks the truth; and revere him for the life he has led. Political independence—discouraged enough in these times among all classes of men—is sure, in the timid profession of the church, to doom a man to eternal poverty and obscurity.

There are occasionally, in Philopatris, a great vigour of style and felicity of expression. His display of classical learning is quite unrivalled—his reading various and good; and we may

observe, at intervals, a talent for wit, of which he might have availed himself to excellent purpose, had it been compatible with the dignified style in which he generally conveys his sentiments. With all these excellent qualities of head and heart, we have seldom met with a writer more full of faults than Philopatris. There is an event recorded in the Bible, which men who write books should keep constantly in their remembrance. It is there set forth, that many centuries ago, the earth was covered with a great flood, by which the whole of the human race, with the exception of one family, were destroyed. It appears also, that from thence, a great alteration was made in the longevity of mankind, who, from a range of seven or eight hundred years, which they enjoyed before the flood, were confined to their present period of seventy or eighty years. This epoch in the history of man gave birth to the twofold division of the antediluvian and the postdiluvian style of writing, the latter of which naturally contracted itself into those inferior limits which were better accommodated to the abridged duration of human life and literary labour. Now, to forget this event,—to write without the fear of the deluge before his eyes, and to handle a subject as if mankind could lounge over a pamphlet for ten years, as before their submersion,—is to be guilty of the most grievous error into which a writer can possibly fall. The author of this book should call in the aid of some brilliant pencil, and cause the distressing scenes of the deluge to be portrayed in the most lively colours for his use. He should gaze at Noah and be brief. The ark should constantly remind him of the little time there is left for reading; and he should learn, as they did in the ark, to crowd a great deal of matter into a very little compass.

Philopatris must not only condense what he says in a narrower compass, but he must say it in a more natural manner. Some persons can neither stir hand nor foot without making it clear that they are thinking of themselves, and laying little traps for approbation. In the course of two long volumes, the Patriot of Warwick is perpetually studying modes and postures:—the subject is the second consideration, and the mode of expression the first. Indeed, whole pages together seem to be mere exercises upon the English language, to evince the copiousness of our synonymes, and to show the various methods in which the parts of speech can be marshalled and arrayed. This, which would be tiresome in the ephemeral

productions of a newspaper, is intolerable in two closely printed volumes.

Again, strange as it may appear to this author to say so, he must not fall into the frequent mistake of rural politicians, by supposing that the understandings of all Europe are occupied with him and his opinions. His ludicrous self-importance is perpetually destroying the effect of virtuous feeling and just observation, leaving his readers with a disposition to laugh, where they might otherwise learn and admire.

'I have been asked, why, after pointing out by name the persons who seemed to me most qualified for reforming our penal code, I declined mentioning such ecclesiastics as might with propriety be employed in preparing for the use of the churches a grave and impressive discourse on the authority of human laws; and as other men may ask the same question which my friend did, I have determined, after some deliberation, to insert the substance of my answer in this place.

'If the public service of our church should ever be directly employed in giving effect to the sanctions of our penal code, the office of drawing up such a discourse as I have ventured to recommend would, I suppose, be assigned to more than one person. My ecclesiastical superiors will, I am sure, make a wise choice. But they will hardly condemn me for saying, that the best sense expressed in the best language may be expected from the Bishops of Landaff, Lincoln, St. David's, Cloyne, and Norwich, the Dean of Christ Church, and the President of Magdalen College, Oxford. I mean not to throw the slightest reproach upon other dignitaries whom I have not mentioned. But I should imagine that few of my enlightened contemporaries hold an opinion different from my own, upon the masculine understanding of a Watson, the sound judgment of a Tomlin, the extensive erudition of a Burgess, the exquisite taste and good nature of a Bennet, the calm and enlightened benevolence of a Bathurst, the various and valuable attainments of a Cyril Jackson, or the learning, wisdom, integrity, and piety of a Martin Routh.'—(pp. 524, 525.)

In the name of common modesty, what could it have signified whether this author had given a list of ecclesiastics whom he thought qualified to preach about human laws? what is his opinion worth? who called for it? who wanted it? how many millions will be influenced by it?—and who, oh gracious Heaven! who are *a* Burgess,—*a* Tomlin,—*a* Bennet,—*a* Cyril Jackson,—*a* Martin Routh?—A *Tom*,—a *Jack*,—a Harry,—a Peter? All good men enough in their generation doubtless they are. But what have they done for the broad *a?* what has any one of them perpetrated, which will make him be remembered, out of the sphere of his private virtues, six months after his decease? Surely, scholars and gentlemen can drink

tea with each other, and eat bread and butter, without all this laudatory crackling.

Philopatris has employed a great deal of time upon the subject of capital punishments, and has evinced a great deal of very laudable tenderness and humanity in discussing it. We are scarcely, however, converts to that system which would totally abolish the punishment of death. That it is much too frequently inflicted in this country, we readily admit; but we suspect it will be always necessary to reserve it for the most pernicious crimes. Death is the most terrible punishment to the common people, and therefore the most preventive. It does not perpetually outrage the feelings of those who are innocent, and likely to remain innocent, as would be the case from the spectacle of convicts working in the highroads and public places. Death is the most irrevocable punishment, which is in some sense a good; for, however necessary it might be to inflict labour and imprisonment for life, it would never be done. Kings and legislatures would take pity after a great lapse of years; the punishment would be remitted, and its preventive efficacy, therefore, destroyed. We agree with Philopatris, that the executions should be more solemn; but still the English are not of a very dramatic turn, and the thing must not be got up too finely. Philopatris, and Mr. Jeremy Bentham before him, lay a vast stress upon the promulgation of laws, and treat the inattention of the English government to this point as a serious evil. It may be so—but we do not happen to remember any man punished for an offence which he did not know to be an offence; though he might not know exactly the degree in which it was punishable. Who are to read the laws to the people? who would listen to them if they were read? who would comprehend them if they listened? In a science like law there must be technical phrases known only to professional men: business could not be carried on without them: and of what avail would it be to repeat such phrases to the people? Again, what laws are to be repeated, and in what places? Is a law respecting the number of threads on the shuttle of a Spitalfields weaver to be read to the corn-growers of the Isle of Thanet? If not, who is to make the selection? If the law cannot be comprehended by listening to the *vivâ voce* repetition, is the reader to explain it, and are there to be law lectures all over the kingdom? The fact is, that the evil does not exist. Those who are not likely to commit the of-

fence soon scent out the newly devised punishments, and have been long thoroughly acquainted with the old ones. Of the nice applications of the law they are indeed ignorant; but they purchase the requisite skill of some man whose business it is to acquire it; and so they get into less mischief by trusting to others than they would do if they pretended to inform themselves. The people, it is true, are ignorant of the laws; but the are ignorant only of the laws that do not concern them. A poacher knows nothing of the penalties to which he exposes himself by stealing ten thousand pounds from the public. Commissioners of public boards are unacquainted with all the decretals of our ancestors respecting the wiring of hares; but the one pockets his extra per centage, and the other his leveret, with a perfect knowledge of the laws—the particular laws which it is his business to elude. Philopatris will excuse us for differing from him upon a subject where he seems to entertain such strong opinions. We have a real respect for all his opinions:—no man could form them who had not a good heart and a sound understanding. If we have been severe upon his style of writing, it is because we know his weight in the commonwealth: and we wish that the many young persons who justly admire and imitate him should be turned to the difficult task of imitating his many excellences, rather than the useless and easy one of copying his few defects.

OBSERVATIONS ON THE HISTORICAL WORK OF THE RIGHT HONOURABLE CHARLES JAMES FOX.

(Edinburgh Review, 1809.)

Observations on the Historical Work of the Right Honourable Charles James Fox. By the Right Honourable George Rose: pp. 215. *With a Narrative of the Events which occurred in the Enterprise of the Earl of Argyle in* 1685. By Sir Patrick Hume. London, 1809.

This is an extraordinary performance in itself;—but the reasons assigned for its publications are still more extraordinary. A person of Mr. Rose's consequence—incessantly occupied, as he assures us, 'with official duties, which take equally,' according to his elegant expression, 'from the disembarrassment of the mind and the leisure of time,' thinks it absolutely necessary to explain to his country the motives which have led him to do so idle a thing as to write a book. He would not have it supposed, however, that he could be tempted to so questionable an act by any light or ordinary consideration. Mr. Fox and other literary loungers may write from a love of fame, or a relish for literature; but the official labours of Mr. Rose can only be suspended by higher calls. All his former publications, he informs us, originated in 'a sense of public duty;' and the present, in 'an impulse of private friendship.' An ordinary reader may, perhaps, find some difficulty in comprehending how Mr. Rose could be '*impelled* by private friendship' to publish a heavy quarto of political observations on Mr. Fox's history:—and for our own part, we must confess, that after the most diligent perusal of his long explanation, we do not in the least comprehend it yet. The explanation, however, which is very curious, it is our duty to lay before our readers.

Mr. Rose was much patronized by the late Earl of Marchmont, who left him his family papers, with an injunction to make use of them, 'if it should ever become necessary.' Among these papers was a narrative by Sir Patrick Hume,

the earl's grandfather, of the occurrences which befell him and his associates in the unfortunate expedition undertaken by the Earl of Argyle in 1685. Mr. Fox, in detailing the history of that expedition, has passed a censure, as Mr. Rose thinks, on the character of Sir Patrick; and, to obviate the effects of that censure, he now finds it 'necessary' to publish this volume.

All this sounds very chivalrous and affectionate; but we have three little remarks to make. In the first place, Mr. Fox passes no censure on Sir Patrick Hume. In the second place, this publication does by no means obviate the censure of which Mr. Rose complains. And, thirdly, it is utterly absurd to ascribe Mr. Rose's part of the volume, in which Sir Patrick Hume is scarcely ever mentioned, to any anxiety about *his* reputation.

In the first place, it is quite certain that Mr. Fox passes no censure on Sir Patrick Hume. On the contrary, he says of him, that 'he had early distinguished himself in the cause of liberty;' and afterwards rates him so very highly as to think it a sufficient reason for construing some doubtful points in Sir John Cochrane's conduct favourably, that 'he had always acted in conjunction with Sir Patrick Hume, who is proved by the subsequent events, and, indeed, *by the whole tenour of his life and conduct, to have been uniformly sincere and zealous in the cause of his country.*' Such is the deliberate and unequivocal testimony which Mr. Fox has borne to the character of this gentleman; and such the historian, whose unjust censures have compelled the Right Honourable George Rose to indite 250 quarto pages, out of pure regard to the injured memory of this ancestor of his deceased patron.

Such is Mr. Fox's opinion, then, of Sir Patrick Hume; and the only opinion he *any where* gives of his *character.* With regard to his *conduct*, he observes, indeed, in one place, that he and the other gentlemen engaged in the enterprise appear to have paid too little deference to the opinion of their noble leader; and narrates, in another that, at the breaking up of their little army, they did not even stay to reason with him, but crossed the Clyde with such as would follow them. Now, Sir Patrick's own narrative, so far from contradicting either of these statements, confirms them both in the most remarkable manner. There is scarcely a page of it that does not show the jealous and controlling spirit which was exercised towards their leader; and, with regard to the concluding scene, Sir Patrick's own account makes infinitely

more strongly against himself and Sir John Cochrane, than the general statement of Mr. Fox. So far from staying to argue with their general before parting with him, it appears that Sir Patrick did not so much as see him; and that Cochrane, at whose suggestion he deserted him, had in a manner ordered that unfortunate nobleman to leave their company. The material words of the narrative are these:—

'On coming down to Kilpatrick, I met Sir John (Cochrane), with others accompanieing him; who *takeing mee by the hand, turned mee,* saying, My heart, goe you with mee? Whither goe you, said I? Over Clide by boate, said he.—I: Wher is Argyle? I must see him.—He: He is gone away to his owne countrey, you cannot see him.—I: How comes this change of resolution, and that wee went not together to Glasgow?—He: It is no time to answer questions, but I shall satisfy you afterward. To the boates wee came, filled 2, and rowed over,'&c. —'An honest gentleman who was present 'told mee afterward the manner of his parting with the Erle. Argyle being in the roome with Sir John, the gentleman coming in, found confusion in the Erle's countenance and speach. In end he said, Sir John, I pray advise mee what shall I doe; shall I goe over Clide with you, or shall I goe to my owne countrey? Sir John answered, My Lord, I have told you my opinion; *you have some Highlanders here about you; it is best you goe to your owne countrey with them, for it is to no purpose for you to go over Clide. My lord, faire you well.* Then call'd the gentleman, *Come away, Sir; who followed him when I met with him.*'—Sir P. Hume's *Narrative*, pp. 63, 64.

Such are all the censures which Mr. Fox passes upon this departed worthy; and such the *contradiction* which Mr. Rose now thinks it necessary to exhibit. It is very true that Mr. Fox, in the course of his narrative, is under the necessity of mentioning, on the credit of all the historians who have treated of the subject, that Argyle, after his capture, did express himself in terms of strong disapprobation both of Sir Patrick Hume and of Sir John Cochrane; and said, that their ignorance and misconduct were, *though not designedly*, the chief cause of his failure. Mr. Fox neither adopts nor rejects this sentiment. He gives his own opinion, as we have already seen, in terms of the highest encomium, on the character of Sir Patrick Hume, and merely repeats the expressions of Argyle as he found them in Woodrow and the other historians, and as he was under the necessity of repeating them, if he was to give any account of the last words of that unfortunate nobleman. It is this censure of Argyle, then, perhaps, and not any censure of Mr. Fox's, that Mr. Rose intended to obviate by

the publication before us. But, upon this supposition, how did the appearance of Mr. Fox's book constitute that *necessity* which compelled the tender conscience of Lord Marchmont's executor to give to the world this long-lost justification of his ancestor? The censure did not appear for the first time in Mr. Fox's book. It was repeated, during Sir Patrick's own life, in all the papers of the time, and in all the historians since. Sir Patrick lived nearly forty good years after this accusation of Argyle was made public; and thirty-six of those years in great credit, honour, and publicity. If he had thought that the existence of such an accusation constituted a kind of moral *necessity* for the publication of his narrative, it is evident that he would himself have published it; and if it was not necessary then, while he was alive, to suffer by the censure of his leader, or to profit by its refutation, it is not easy to understand how it should be necessary now, when 130 years have elapsed from the date of it, and the bones of its author have reposed for nearly a century in their peaceful and honoured monument.

That the narrative never was published before, though the censure, to which it is supposed to be an antidote, had been published for more than a century, is a pretty satisfactory proof that those who were most interested and best qualified to judge, either did not consider the censure as very deadly, or the antidote as very effectual. We are very well contented to leave it doubtful which of these was the case; and we are convinced that all the readers of Mr. Rose's book will agree that it is still very doubtful. Sir Patrick, in his narrative, no doubt, says that Argyle was extremely arrogant, self-willed, and obstinate; but it is equally certain, that the earl said to him that he was jealous, disobedient, and untractable. Both were men of honour and veracity; and, we doubt not, believed what they said. It is even possible that both may have said truly; but, at this distance of time, and with no new evidence but the averment of one of the parties, it would be altogether ridiculous to pretend to decide which may have come nearest to an impartial statement. Before the publication of the present narrative, it is plain from Woodrow, Burnet, and other writers, that considerable blame was generally laid on Argyle for his peremptoriness and obstinacy; and, now that the narrative is published, it is still more apparent than ever that he had some ground for the charges he made against his officers. The

whole tenour of it shows that they were constantly in the habit of checking and thwarting him; and we have already seen that it gives a very lame and unsatisfactory account of their strange desertion of him, when their fortunes appeared to be desperate.

It is perfectly plain, therefore, we conceive, that the publication of Mr. Fox's book constituted neither a necessity nor an intelligible inducement for the publication of this narrative; and that the narrative, now that it is published, has no tendency to remove any slight shade of censure that history may have thrown over the temper or prudence of Sir Patrick Hume. But, even if all this had been otherwise—if Mr. Fox had, for the first time, insinuated a censure on this defunct whig, and if the narrative had contained the most complete refutation of such a censure,—this might, indeed, have accounted for the publication of Sir Patrick's narrative; but it could not have accounted at all for the publication of Mr. Rose's book—the only thing to be accounted for. The narrative is given as an appendix of 65 pages to a volume of upwards of 300. In publishing the narrative, Mr. Rose did not assume the character of 'an author,' and was not called upon, by the responsibility of that character, to explain to the world his reasons for 'submitting himself to their judgment.' It is only for his book, then, exclusive of the narrative, that Mr. Rose can be understood to be offering any apology; and the apology he offers is, that it sprung from the impulse of private friendship. When the matter is looked into, however, it turns out, that though private friendship may, by a great stretch, be supposed to have dictated the publication of the appendix, it can by no possibility account, or help to account, for the composition of the book. Nay, the tendency and tenour of the book are such as this ardent and romantic friendship must necessarily condemn. It contains nothing whatever in praise or in defence of Sir Patrick Hume; but it contains a very keen, and not a very candid, attack upon his party and his principles. Professing to be published from anxiety to vindicate and exalt the memory of an insurgent revolution whig, it consists almost entirely of an attempt to depreciate whig principles, and openly to decry and vilify such of Mr. Fox's opinions as Sir Patrick Hume constantly exemplified in his actions. There never was an effect, we believe, imputed to so improbable a cause.

Finally, we may ask, if Mr. Rose's view, in this publication,

was merely to vindicate the memory of Sir Patrick Hume, why he did not put into Mr. Fox's hands the information which would have rendered all vindication unnecessary? It was known to all the world, for several years, that Mr. Fox was engaged in the history of that period; and if Mr. Rose really thought that the papers in his custody gave a different view of Sir Patrick's conduct from that exhibited in the printed authorities, was it not his duty to put Mr. Fox upon his guard against being misled by them, and to communicate to him those invaluable documents to which he could have access in no other way? Did he doubt that Mr. Fox would have candour to state the truth, or that he would have stated with pleasure any thing that could exalt the character of a revolution whig? Did he imagine that any statement of his could ever obtain equal notoriety and effect with a statement in Mr. Fox's history? Or did he poorly withhold this information, that he might detract from the value of that history, and have to boast to the public that there was one point upon which he was better informed than that illustrious statesman? As to the preposterous apology which seems to be hinted at in the book itself, viz., that it was Mr. Fox's business to have asked for these papers, and not Mr. Rose's to have offered them, we shall only observe, that it stands on a point of etiquette, which would scarcely be permitted to govern the civilities of tradesmen's wives; and that it seems not a little unreasonable to lay Mr. Fox under the necessity of asking for papers, the very existence of which he could have no reason to expect. This narrative of Sir Patrick Hume has now lain in the archives of his family for 130 years, unknown and unsuspected to all but its immediate proprietor; and, distinguished as Sir Patrick was in his day in Scotland, it certainly does not imply any extraordinary stupidity in Mr. Fox, not to know, by intuition, that there were papers of his existence which might afford him some light on the subject of his history.

We may appear to have dwelt too long on these preliminary considerations, since the intrinsic value of Mr. Rose's observations certainly will not be affected by the truth or the fallacy of the motives he has assigned for publishing them. It is impossible, however, not to see that, when a writer assigns a false motive fo. his coming forward, he is commonly conscious that the real one is discreditable: and that to expose the hollowness of such a pretence, is to lay the foundation of a wholesome

distrust of his general fairness and temper. Any body certainly had a right to publish remarks on Mr. Fox's work—and nobody a better right than Mr. Rose; and if he had stated openly, that all the habits and connections of his life had led him to wish to see that work discredited, no one would have been entitled to complain of his exertions in the cause. When he chooses to disguise this motive, however, and to assign another which does not at all account for the phenomenon, we are so far from forgetting the existence of the other, that we are internally convinced of its being much stronger than we should otherwise have suspected; and that it is only dissembled, because it exists in a degree that could not have been decently avowed. For the same reason, therefore, of enabling our readers more distinctly to appreciate the intellect and temper of this right honourable author, we must say a word or two more of his Introduction, before proceeding to the substance of his remarks.

Besides the edifying history of his motive for writing, we are favoured in that singular piece, with a number of his opinions upon points no way connected with Mr. Fox or his history; and with a copious account of his labours and studies in all kinds of juridical and constitutional learning. In order to confirm an opinion that a minute knowledge of our ancient history is not necessary to understand our actual constitution, he takes an unintelligible survey of the progress of our government, from the days of King Alfred,—and quotes Lord Coke, Plowden, Doomsday Book, Lord Ellesmere, Rymer's Fœdera, Dugdale's Origines, the Rolls of Parliament, Whitelock, and Abbot's Records; but, above all, 'a report which *I* made several years ago on the state of the records in *my* custody.' He then goes on, in the most obliging manner, to inform his readers that 'Vertot's Account of the Revolutions of Rome has been found very useful by persons who have read the Roman History; but the best model that I have met with for such a work as appears to me to be much wanted, is a short History of Poland, which I translated nearly forty years ago, but did not publish; the manuscript of which his majesty at the time did me the honour to accept; and it probably is still in his majesty's library.'—Introduction, pp. xxiv. xxv.

Truly all this is very interesting, and very much to the purpose:—but scarcely more so than eight or nine pages that follow, containing a long account of the conversations which

Lord Marchmont had with Lord Bolingbroke, about the politics of Queen Anne's ministers, and which Mr. Rose now gives to the world from his recollection of various conversations between himself and Lord Marchmont. He tells us, moreover, that, 'accustomed as he has been to *official accuracy* in statement,' he had naturally a quick eye for mistakes in fact or in deduction;—that 'having long enjoyed the confidence and affectionate friendship of Mr. Pitt,' he has been more scrupulous than he would otherwise have been in ascertaining the grounds of his animadversions on the work of his great rival;—and that, notwithstanding all this anxiety, and the want of 'disembarrassment of mind' and 'leisure of time,' he has compiled this volume in about as many *weeks* as Mr. Fox took *years* to the work on which it comments!

For the Observations themselves, we must say that we have perused them with considerable pleasure—not certainly from any extraordinary gratification which we derived from the justness of the sentiments, or the elegance of the style, but from a certain agreeable surprise which we experienced on finding how few parts of Mr. Fox's doctrine were considered as vulnerable, even by Mr. Rose; and in how large a proportion of his freest and strongest observations that jealous observer has expressed his most cordial concurrence. The Right Honourable George Rose, we rather believe, is commonly considered as one of the least whiggish or democratical of all the public characters who have lived in our times; and he has himself acknowledged, that a long habit of political opposition to Mr. Fox had perhaps given him a stronger bias against his favourite doctrines than he might otherwise have entertained. It was, therefore, no slight consolation to us to find that the true principles of English liberty had made so great a progress in the opinions of all men in upper life, as to extort such an ample admission of them, even from a person of Mr. Rose's habits and connections. As we fear, however, that the same justness and liberality of thinking are by no means general among the more obscure retainers of party throughout the country, we think it may not be without its use to quote a few of the passages to which we have alluded, just to let the vulgar tories in the provinces see how much of their favourite doctrines has been abjured by their more enlightened chief and leaders in the seat of government.

In the first place, there are all the passages (which it would

be useless and tedious to recite) in which the patriotism and public virtue of Sir P. Hume are held up to the admiration of posterity. Now, Sir P. Hume, that true and sincere lover of his country, whose 'talents and virtues his sovereign acknowledged and rewarded,' and 'whose honours have been attended by the suffrage of his country and the approbation of good men,' was, even in the reign of Charles, concerned in designs analogous to those of Russell and Sydney;—and, very soon after the accession of James, and (as Mr. Rose thinks) before that monarch had done any thing in the least degree blameable, rose up openly in arms, and endeavoured to stir up the people to overthrow the existing government. Even Mr. Fox hesitates as to the wisdom and the virtue of those engaged in such enterprises;—and yet Mr. Rose, professing to see danger in that writer's excessive zeal for liberty, writes a book to extol the patriotism of a premature insurgent.

After this, we need not quote our author's warm panegyrics on the Revolution—'that *glorious* event to which the measures of James *necessarily* led,'—or on the character of Lord Sommers, 'whose wisdom, talents, political *courage* and *virtue*, would alone have been sufficient to insure the success of that measure.' It may surprise some of his political admirers a little more, however, to find him professing that he '*concurs* with Mr. Fox as to the expediency of the bill of exclusion,' (that boldest and most decided of all whig measures); and thinks 'that the events which took place in the next reign afford a strong justification of the conduct of the promoters of that measure.' When his tory friends have digested that sentiment, they may look at his patriotic invectives against the degrading connection of the two last of the Stuart princes with the court of France; and the 'scandalous profligacy by which Charles and his successor betrayed the best interests of their country for miserable stipends.' There is something very edifying, indeed, though we should fear a little alarming to courtly tempers, in the warmth with which our author winds up his diatribe on this interesting subject. 'Every one,' he observes, 'who carries on a clandestine correspondence with a foreign power, in matters touching the interests of Great Britain, is *primâ facie* guilty of a great moral, as well as political, crime. If a subject, he is a traitor to his king and his country; and if a monarch *he is a traitor to the crown which he wears*, and to the empire which he governs. There may,

by possibility, be circumstances to extenuate the former; there can be none to lessen our detestation of the latter.'—(pp. 149, 150.)

Conformably to these sentiments, Mr. Rose expresses his concurrence with all that Mr. Fox says of the arbitrary and oppressive measures which distinguished the latter part of Charles's reign;—declares that 'he has manifested great temperance and forbearance in the character which he gives of Jefferies;—and *understated* the enormity of the cruel and detestable proceedings of the Scottish government, in its unheard of acts of power, and the miseries and persecutions which it inflicted;—admits that Mr. Fox's work treated of a period 'in which *the tyranny of the sovereign* at home was not redeemed by any glory or success abroad;—and speaks of the Revolution as the era 'when the full measure of *the monarch's tyrannical usurpations made resistance a duty paramount to every consideration* of personal or public danger.'

It is scarcely possible, we conceive, to read these, and many other passages which might be quoted from the work before us, without taking the author for a whig; and it certainly is not easy to comprehend how the writer of them could quarrel with any thing in Mr. Fox's history, for want of deference and veneration for the monarchical part of our constitution. To say the truth, we have not always been able to satisfy ourselves of the worthy author's consistency; and holding, as we are inclined to do, that his natural and genuine sentiments are liberal and manly, we can only account for the narrowness and unfairness of some of his remarks, by supposing them to originate from the habits of his practical politics, and of that long course of opposition, in which he learned to consider it a duty to his party to discredit every thing that came from the advocate of the people. We shall now say a word or two on the remarks themselves, which, as we have already noticed, will be found to be infinitely fewer, and more insignificant, than any one, looking merely at the bulk of the volume, could possibly have conjectured.

The first, of any sort of importance, is made on those passages in which Mr. Fox calls the execution of the king 'a far less violent measure than that of Lord Strafford;' and says, 'that there was something in the splendour and magnanimity of the act, which has served to raise the character of the nation in the

opinion of Europe in general.' Mr. Rose takes great offence at both these remarks; and says, that the constitution itself was violated by the execution of the king, while the case of Lord Strafford was but a private injury. We are afraid Mr. Rose does not perfectly understand Mr. Fox,—otherwise it would be difficult not to agree with him. The grossness of Lord Strafford's case consisted in this, that a bill of attainder was brought in, *after* a regular proceeding by impeachment had been tried against him. He was substantially *acquitted*, by the most unexceptionable process known in our law, *before* the bill of attainder came to declare him guilty, and to punish him. There was here, therefore, a most flagrant violation of all law and justice, and a precedent for endless abuses and oppressions. In the case of the king, on the other hand, there could be no violation of settled rules or practice; because the case itself was necessarily out of the purview of every rule, and could be drawn into no precedent. The constitution, no doubt, was necessarily destroyed or suspended by the trial; but Mr. Rose appears to forget that it had been destroyed or suspended before, by the *war*, or by the acts of the king which brought on the war. If it was lawful to fight against the king, it must have been lawful to take him prisoner: after he was a prisoner, it was both lawful and necessary to consider what should be done with him; and every deliberation of this sort had all the assumption, and none of the fairness of a trial. Yet Mr. Rose has himself told us, that 'there are cases in which resistance becomes a paramount duty;' and probably is not prepared to say, that it was more violent and criminal to drive King James from the throne in 1688, than to wrest all law and justice to take the life of Lord Strafford in 1641. Yet the constitution was as much violated by the forfeiture of the one sovereign, as by the trial and execution of the other. It was impossible that the trial of King Charles might have terminated in a sentence of mere deprivation; and if James had fought against his people, and been conquered, he might have been tried and executed. The constitution was gone for the time, in both cases, as soon as force was mutually appealed to; and the violence that followed thereafter, to the person of the monarch, can receive no aggravation from any view of that nature.

With regard, again, to the loyal horror which Mr. Rose expresses, when Mr. Fox speaks of the splendour and magnanimity of the proceedings against the king, it is probable that

this zealous observer was not aware, that his favourite 'prerogative writer,' Mr. Hume, had used the same, or still loftier expressions, in relation to the same event. Some of the words of that loyal and unsuspected historian are as follows :—'the pomp, the dignity, the ceremony of this transaction, correspond to the greatest conceptions that are suggested in the annals of human kind ;—the delegates of a great people sitting in judgment upon their supreme magistrate, and trying him for his mismanagement and breach of trust.'* Cordially as we agree with Mr. Fox in the unprofitable severity of this example, it is impossible, we conceive, for any one to consider the great, grave, and solemn movement of the nation that led to it, or the stern and dispassionate temper in which it was conducted, without feeling that proud contrast between this execution and that of all other deposed sovereigns in history,—which led Mr. Fox, in common with Mr. Hume, and every other writer on the subject, to make use of the expressions which have been alluded to.

When Mr. Rose, in the close of his remarks upon this subject, permits himself to insinuate, that if Mr. Fox thought such high praise due to the publicity, &c. of King Charles's trial, he must have felt unbounded admiration at that of Lewis XVI., he has laid himself open to a charge of such vulgar and uncandid unfairness, as was not to have been at all expected from a person of his rank and description. If Lewis XVI. had been openly in arms against his people,—if the Convention had required no other victim—and had settled into a regular government as soon as he was removed,—there might have been more room for a parallel,—to which, as the fact actually stands, every Briton must listen with indignation. Lewis XVI. was wantonly sacrificed to the rage of an insane and bloodthirsty faction, and tossed to the executioner among the common supplies for the guillotine. The publicity and parade of his trial were assumed from no love of justice, or sense of dignity; but from a low principle of profligate and clamorous defiance to every thing that had become displeasing: and ridiculous and incredible as it would appear of any other nation, we have not the least doubt that a certain childish emulation of the avenging liberty of the English had its share in producing this paltry copy of our grand and original daring. The insane

* Hume's History, vol. vii. p. 141.

coxcombs who blew out their brains, after a piece of tawdry declamation, in some of the provincial assemblies, were about as like Cato or Hannibal, as the trial and execution of Lewis was like the condemnation of King Charles. Our regicides were serious and original at least, in the bold, bad deeds which they committed. The regicides of France were poor theatrical imitators,—intoxicated with blood and with power, and incapable even of forming a sober estimate of the guilt or the consequences of their actions. Before leaving this subject, we must remind our readers that Mr. Fox unequivocally condemns the execution of the king; and spends some time in showing that it was excusable neither on the ground of present expediency nor future warning. After he had finished that statement, he proceeds to say, that notwithstanding what the more reasonable part of mankind may think, it is to be doubted, whether that proceeding has not served to raise the national character in the eyes of foreigners, &c.; and then goes on to refer to the conversations he had himself witnessed on that subject abroad. A man must be a very zealous royalist, indeed, to disbelieve or be offended with this.

Mr. Rose's next observation is in favour of General Monk; upon whom he is of opinion that Mr. Fox has been by far too severe,—at the same time that he fails utterly in obviating any of the grounds upon which that severity is justified. Monk was not responsible *alone* indeed, for restoring the king, without taking any security for the people; but, as wielding the whole power of the army, by which that restoration was effected, he is certainly *chiefly* responsible for that most criminal omission. As to his indifference to the fate of his companions in arms, Mr. Rose does, indeed, quote the testimony of *his chaplain*, who wrote a complimentary life of his patron, to prove that, on the trial of the regicides, he behaved with great moderation. We certainly do not rate this testimony very highly; and do think it far more than compensated by that of Mrs. Hutchinson, who, in the life of her husband, says, that on the first proceedings against the regicides in the House of Commons, 'Monk sate still, and had not one word to interpose for any man, *but was as forward to set vengeance on foot as any one.*'* And a little afterwards she adds, apparently from her own personal knowledge and observation, that 'before the pri-

* Life of Colonel Hutchinson, p. 372.

soners were brought to the Tower, Monk and his wife came one evening to the garden, and caused them to be brought down, only to stare at them,—which was such a behaviour for that man, who had betrayed so many of those that had honoured and trusted him, &c., as no story can parallel the inhumanity of.'*

With regard again to Mr. Fox's charge of Monk's tamely acquiescing in the insults so meanly put on the illustrious corps of his old commander Blake, it is perfectly evident, even from the authorities referred to by Mr. Rose, that Blake's body was dug up by the king's order, among others, and removed out of the hallowed precincts of Westminster, to be reinterred with twenty more, in one pit at St. Margaret's.

But the chief charge is, that on the trial of Argyle, Monk spontaneously sent down some confidential letters, which turned the scale of evidence against that unfortunate nobleman. This statement, to which Mr. Fox is most absurdly blamed for giving credit, is made on the authority of the three historians who lived nearest to the date of the transaction, and who all report it as quite certain and notorious. These historians are Burnet, Baillie, and Cunningham; nor are they contradicted by any one writer on the subject, except Dr. Campbell, who, at a period comparatively recent, and without pretending to have discovered any new document on the subject, is pleased to disbelieve them upon certain hypothetical and argumentative reasons of his own. These reasons Mr. Laing has examined and most satisfactorily obviated in his history; and Mr. Rose has exerted incredible industry to defend. The Scottish records for that period have perished; and for this reason, and because a collection of pamphlets and newspapers of that age, in Mr. Rose's possession, make no mention of the circumstance, he thinks fit to discredit it altogether. If this kind of scepticism were to be indulged, there would be an end of all reliance on history. In this particular case, both Burnet and Baillie speak quite positively, from the information of cotemporaries; and state a circumstance that would very well account for the silence of the formal accounts of the trial, if any such had been preserved, viz., that Monk's letters were not produced till after the evidence was finished on both sides, and the debate begun on the result;—an irregularity, by the way, by much too gross

* Life of Colonel Hutchinson, p. 378.

to have been charged against a public proceeding without any foundation.

Mr. Rose's next observation is directed rather against Judge Blackstone than against Mr. Fox; and is meant to show, that this learned person was guilty of great inaccuracy in representing the year 1679 as the era of good laws and bad government. It is quite impossible to follow him through the dull details and feeble disputations by which he labours to make it appear that our laws were not very good in 1679, and that they, as well as the administration of them, were much mended after the Revolution. Mr. Fox's, or rather Blackstone's remark is too obviously and strikingly true in substance, to admit of any argument or illustration.*

* Mr. Rose talks a great deal, and justly, about the advantages of the judges not being removable at pleasure; and, with a great air of erudition, informs us, that after 6 Charles, all the commissions were made *quamdiu nobis placuerit.* Mr. Rose's researches, we fear, do not often go beyond the records in his custody. If he had looked into Rushworth's Collection, he would have found, that, in 1641, King Charles agreed to make the commission, *quamdiu se bene gesserint;* and that some of those illegally removed in the following reign, though not officiating in court, still retained certain functions in consequence of that appointment. The following is the passage, at p. 1265, vol. iii. of Rushworth: 'After the passing of these votes (16th December, 1640) against the judges, and transmitting them to the House of Peers, and their concurring with the House of Commons therein, an address was made unto the king shortly after, that his majesty, for the future, would not make any judge by patent *during pleasure;* but that they may hold their places hereafter, *quamdiu se bene gesserint;* and his majesty *did really grant the same.* And in his speech to both houses of Parliament, at the time of giving his royal assent to two bills, one to take away the High Commission Court, and the other the Court of Star-Chamber, and regulating the power of the council table, he hath this passage; "If you consider what I have done this Parliament, discontents will not sit in your hearts; for I hope you remember, that I have granted, that the judges hereafter shall hold their places *quamdiu se bene gesserint.*" And likewise, his gracious majesty King Charles the Second observed the same rule and method in granting patents to judges, *quamdiu se bene gesserint;* as appears upon record in the rolls; viz., to Sergeant Slide to be Lord Chief Justice of the King's Bench, Sir Orlando Bridgeman to be Lord Chief Baron, and afterwards to be Lord Chief Justice of Common Pleas; to Sir Robert Forster, and others. Mr. Sergeant Archer, now living, *notwithstanding his removal, still enjoys his patent,* being *quamdiu se bene gesserint;* and receives *a share in the profits of the court,* as to fees and other proceedings, by virtue of his said patent: and his name is used in those fines, &c. as a judge of that court.'

The next charge against Mr. Fox is for saying, that if Charles II.'s ministers betrayed him, he betrayed them in return; keeping, from some of them at least, the secret of what he was pleased to call his religion, and the state of his connections with France. After the furious attack which Mr. Rose has made in another place upon this prince and his French connections, it is rather surprising to see with what zeal he undertakes his defence against this very venial sort of treachery, of concealing his shame from some of his more respectable ministers. The attempt, however, is at least as unsuccessful as it is unaccountable. Mr. Fox says only, that *some* of the ministers were not trusted with the secret; and both Dalrymple and Macpherson say, that none but the *Catholic* counsellors were admitted to this confidence. Mr. Rose mutters, that there is no evidence of this; and himself produces an abstract of the secret treaty between Lewis and Charles, of May, 1670, to which the subscriptions of four *Catholic* ministers of the latter are affixed!

Mr. Fox is next taxed with great negligence for saying, that he does not know what proof there is of Clarendon's being privy to Charles receiving money from France; and very long quotations are inserted from the correspondence printed by Dalrymple and Macpherson,—which do *not* prove Clarendon's knowledge of any money being *received*, though they do seem to establish, that he must have known of its being stipulated for.

After this comes Mr. Rose's grand attack; in which he charges the historian with his whole heavy artillery of argument and quotation, and makes a vigorous effort to drive him from the position, that the early and primary object of James's reign was not to establish popery in this country, but in the first place to render himself absolute: and that, for a considerable time, he does not appear to have aimed at any thing more than a complete toleration for his own religion. The grounds upon which this opinion is maintained by Mr. Fox are certainly very probable. There is, in the first place, his zeal for the Church of England during his brother's life, and the violent oppressions by which he enforced a Protestant test in Scotland; secondly, the fact of his carrying on the government and the persecution of nonconformists by Protestant ministers; and, thirdly, his addresses to his Parliament, and the tenour of much of his correspondence with Lewis. In opposition to this, Mr. Rose quotes an infinite variety of passages from Barillon's

correspondence, to show in general the unfeigned zeal of this unfortunate prince for his religion, and his constant desire to glorify and advance it. Now, it is perfectly obvious, in the first place, that Mr. Fox never intended to dispute James's zeal for popery; and, in the second place, it is very remarkable, that in the first *seven* passages quoted by Mr. Rose, nothing more is said to be in the king's contemplation than the complete *toleration* of that religion. 'The free exercise of the Catholic religion in their own houses,'—the abolition of the penal laws against Catholics,—'the free exercise of that religion,' &c. &c. are the only objects to which the zeal of the king is said to be directed; and it is not till after the suppression of Monmouth's rebellion, that these phrases are exchanged for 'a resolution to *establish the Catholic religion*,' or 'to get that religion established;' though it would be fair, perhaps, to interpret some even of these phrases with reference to those which precede them in the correspondence; especially as, in a letter from Lewis to Barillon, so late as 20th August, 1685, he merely urges the great expediency of James establishing '*the free exercise*' of that religion.

After all, in reality, there is not much substantial difference as to this point between the historian and his observer. Mr. Fox admits most explicitly, that James was zealous in the cause of popery; and that after Monmouth's execution, he made attempts equally violent and undisguised to restore it. Mr. Rose, on the other hand, admits that he was exceedingly desirous to render himself absolute; and that one ground of his attachment to popery probably was, its natural affinity with an arbitrary government. Upon which of these two objects he set the chief value, and which of them he wished to make subservient to the other, it is not perhaps now very easy to determine. In addition to the authorities referred to by Mr. Fox, however, there are many more which tend directly to show that one great ground of his antipathy to the reformed religion was, his conviction that it led to rebellion and republicanism. There are very many passages in Barillon to this effect; and, indeed, the burden of all Lewis's letters is to convince James that 'the existence of monarchy' in England depended on the protection of the Catholics. Barillon says (Fox, App. p. 125), that 'the king often declares publicly, that all Calvinists are naturally enemies to royalty, and above all, to royalty in England.' And Burnet observes (vol. i. p. 73),

that the king told him, 'that among other prejudices he had against the Protestant religion, this was one, that his brother and himself being in many companies in Paris *incognito* (during the Commonwealth), where there were Protestants, he found they were all alienated from them, and great admirers of Cromwell; *so he believed they were all rebels in their hearts.*' It will not be forgotten either, that in his first address to the council, on his accession, he made use of those memorable words:—'I know the principles of the Church of England are for monarchy, and *therefore* I shall always take care to defend and support it.' While he retained this opinion of its loyalty, accordingly, he did defend and support it; and did persecute all dissidents from its doctrine, at least as violently as he afterwards did those who opposed popery. It was only when he found that the orthodox doctrines of non-resistance and *jus divinum* would not go all lengths, and that even the bishops would not send his proclamation to their clergy, that he came to class them with the rest of the heretics, and to rely entirely upon the slavish votaries of the Roman superstition.

The next set of remarks is introduced for the purpose of showing that Mr. Fox has gone rather too far, in stating that the object both of Charles and James in taking money from Lewis, was to render themselves independent of Parliament, and to enable them to govern without those assemblies. Mr. Rose admits that this was the point which both monarchs were *desirous* of attaining; and merely says, that it does not appear that either of them expected that the calling of Parliaments could be entirely dispensed with. There certainly is not here any worthy subject of contention.

The next point is, as to the sums of money which Barillon says he distributed to the whig leaders, as well as to the king's ministers. Mr. Rose is very liberal and rational on this subject; and thinks it not unfair to doubt the accuracy of the account which this minister renders of his disbursements. He even quotes two passages from Mad. de Sevigné, to show that it was the general opinion that he had enriched himself greatly by his mission to England. In a letter written during the continuance of that mission, she says, 'Barillon s'en va, &c.; *son emploi est admirable cette année; il mangera cinquante mille francs; mais il sait bien où les prendre.*' And after his final return, she says he is old and rich, and looks without envy on the brilliant situation of M. D'Avaus. The

only inference he draws from the discussion is, that it should have a little shaken Mr. Fox's confidence in his accuracy. The answer to which obviously is, that his mere dishonesty, where his private interest was concerned, can afford no reason for doubting his accuracy, where it was not affected.

In the concluding section of his remarks, Mr. Rose resumes his eulogium on Sir Patrick Hume,—introduces a splendid encomium on the Marquis of Montrose,—brings authority to show, that torture was used to extort confession in Scotland even after the Revolution,—and then breaks out into a high tory rant against Mr. Fox, for supposing that the councillors who condemned Argyle might not be very easy in their consciences, and for calling those who were hunting down that nobleman's dispersed followers 'authorized assassins.' James, he says, was their *lawful sovereign;* and the parties in question having been in open rebellion, it was the evident duty of all who had not joined with them to suppress them. We are not very fond of arguing general points of this nature; and the question here is fortunately special, and simple. If the tyranny and oppression of James in Scotland—the unheard-of enormity of which Mr. Rose owns that Mr. Fox has understated—had already given that country a far juster title to renounce him than England had in 1688, then James was *not* 'their lawful sovereign' in any sense in which that phrase can be understood by a free people; and those whose cowardice or despair made them submit to be the instruments of the tyrant's vengeance on one who had armed for their deliverance, may very innocently be presumed to have suffered some remorse for their compliance. With regard, again, to the phrase of 'authorized assassins,' it is plain, from the context of Mr. Fox, that it is not applied to the regular forces acting against the remains of Argyle's *armed* followers, but to those individuals, whether military or not, who pursued the disarmed and solitary fugitives, for the purpose of butchering them in cold blood, in their caverns and mountains.

Such is the substance of Mr. Rose's observations; which certainly do not appear to us of any considerable value—though they indicate, throughout, a laudable industry, and a still more laudable consciousness of inferiority,—together with (what we are determined to believe) a natural disposition to liberality and moderation, counteracted by the littleness of party jealousy and resentment. We had noted a great number of

petty misrepresentations and small inaccuracies; but in a work which is not likely either to be much read, or long remembered, these things are not worth the trouble of correction.

Though the book itself is very dull, however, we must say that the Appendix is very entertaining. Sir Patrick's narrative is clear and spirited; but what delights us far more, is another and more domestic and miscellaneous narrative of the adventures of his family, from the period of Argyle's discomfiture till their return in the train of King William. This is from the hand of Lady Murray, Sir Patrick's grand-daughter; and is mostly furnished from the information of her mother, his favourite and exemplary daughter. There is an air of cheerful magnanimity and artless goodness about this little history, which is extremely engaging: and a variety of traits of *Scottish* simplicity and homeliness of character, which recommend it, in a peculiar manner, to our *national* feelings. Although we have already enlarged this article beyond its proper limits, we must give our readers a few specimens of this singular chronicle.

After Sir Patrick's escape, he made his way to his own castle, and was concealed for some time in a vault under the church, where his daughter, then a girl under twenty, went alone, every night, with an heroic fortitude, to comfort and feed him. The gaiety, however, which lightened this perilous intercourse, is to us still more admirable than its heroism.

'She went every night by herself, at midnight, to carry him victuals and drink; and stayed with him as long as she could to get home before day. In all this time, my grandfather showed the same constant composure, and cheerfulness of mind, that he continued to possess to his death, which was at the age of eighty-four; all which good qualities she inherited from him in a high degree. *Often did they laugh heartily in that doleful habitation*, at different accidents that happened. She at that time had a terror for a churchyard, especially in the dark, as is not uncommon at her age, by idle nursery stories; but when engaged by concern for her father, she stumbled over the graves every night alone, without fear of any kind entering her thoughts, but for soldiers and parties in search of him, which the least noise or motion of a leaf put her in terror for. The minister's house was near the church. The first night she went, his dogs kept such a barking as put her in the utmost fear of a discovery. My grandmother sent for the minister next day, and, upon pretence of a mad dog, got him to hang all his dogs. There was also difficulty of getting victuals to carry him, without the servants suspecting: the only way it was done, was by stealing it off her plate at dinner, into her lap. Many a diverting story she has told about this, and other things of the like

nature. Her father liked sheep's head; and, while the children were eating their broth, she had conveyed most of one into her lap. When her brother Sandy (the late Lord Marchmont) had done, he looked up with astonishment and said, "Mother, will you look at Grizzel; while we have been eating our broth, she has eat up the whole sheep's head." *This occasioned so much mirth among them, that her father, at night, was greatly entertained by it; and desired Sandy might have a share in the next.*'—App. p. [v.]

They then tried to secrete him in a low room in his own house; and, for this purpose, to contrive a bed concealed under the floor, which this affectionate and light-hearted girl secretly excavated herself, by scratching up the earth with her nails, 'till she left not a nail on her fingers,' and carrying it into the the garden at night in bags. At last, however, they all got over to Holland, where they seem to have lived in great poverty,—but in the same style of magnanimous gaiety and cordial affection, of which some instances have been recited. This admirable young woman, who lived afterwards with the same simplicity of character in the first society in England, seems to have exerted herself in a way that nothing but affection could have rendered tolerable, even to one bred up to drudgery.

'All the time they were there' (says his daughter), 'there was not a week my mother did not sit up two nights, to do the business that was necessary. She went to market; went to the mill to have their corn ground, which, it seems, is the way with good managers there; dressed the linen; cleaned the house; made ready dinner; mended the children's stockings, and other clothes; made what she could for them; and, in short, did every thing. Her sister Christian, who was a year or two younger, diverted her father and mother, and the rest, who were fond of music. Out of their small income they bought a harpsichord for little money (but is a Rucar*), now in my custody, and most valuable. My aunt played and sung well, and had a great deal of life and humour, but no turn to business. Though my mother had the same qualifications, and liked it as well as she did, she was forced to drudge; and *many jokes used to pass betwixt the sisters about their different occupations.*'—p. [ix.]

'Her brother soon afterwards entered into the Prince of Orange's guards: and her constant attention was to have him appear right in his linen and dress. They wore little point cravats and cuffs, which many a night she sat up to have in as good order for him as any in the place; and one of their greatest expenses was in dressing him as he ought to be. As their house was always full of the unfortunate banished people like themselves, they seldom went to dinner, without three, or four, or five of them, to share with them; and many a hundred times I have heard her say, she could never look back upon their man-

* An eminent maker of that time.

ner of living there, without thinking it a miracle. They had no want, but plenty of every thing they desired, and much contentment; and always declared it the most pleasing part of her life, though they were not without their little distresses; *but to them they were rather jokes than grievances.* The professors, and men of learning in the place, came often to see my grandfather. The best entertainment he could give them, was a glass of alabast beer, which was a better kind of ale than common. He sent his son Andrew, the late Lord Kimmerghame, a boy, to draw some for them in the cellar: he brought it up with great diligence; but in the other hand the spiket of the barrel. My grandfather said, "Andrew, what is that in your hand?" When he saw it he run down with speed; but the beer was all run out before he got there. *This occasioned much mirth;* though, perhaps, they did not well know where to get more.'—pp. [x. xi.]

Sir Patrick, we are glad to hear, retained this kindly cheerfulness of character to the last; and, after he was an earl and chancellor of Scotland, and unable to stir with gout, had himself carried to the room where his children and grandchildren were dancing, and insisted on beating time with his foot. Nay, when *dying* at the advanced age of eighty-four, he could not resist his old propensity to joking, but uttered various pleasantries on the disappointment the worms would meet with, when, after boring through his thick coffin, they would find little but bones.

There is, in the Appendix, besides these narrations, a fierce attack upon Burnet, which is full of inaccuracies and ill temper; and some interesting particulars of Monmouth's imprisonment and execution. We dare say Mr. Rose could publish a volume or two of very interesting tracts; and can venture to predict, that his collections will be much more popular than his observations.

DISTURBANCES AT MADRAS. (Edinburgh Review, 1810.)

Narrative of the Origin and Progress of the Dissensions at the Presidency of Madras, founded on Original Papers and Correspondence. Lloyd, London, 1810.

Account of the Origin and Progress of the late Discontents of the Army on the Madras Establishment, Cadell and Davies, London, 1810.

Statement of Facts delivered to the Right Honourable Lord Minto. By William Petrie, Esq. Stockdale, London, 1810.

The disturbances which have lately taken place in our East Indian possessions, would, at any period, have excited a considerable degree of alarm; and those feelings are, of course, not a little increased by the ruinous aspect of our European affairs. The revolt of an army of eighty thousand men is an event which seems to threaten so nearly the ruin of the country in which it happens, that no common curiosity is excited as to the causes which could have led to it, and the means by which its danger was averted. On these points, we shall endeavour to exhibit to our readers the information afforded to us by the pamphlets whose titles we have cited. The first of these is understood to be written by an agent of Sir George Barlow, sent over for the express purpose of defending his measures; the second is most probably the production of some one of the dismissed officers, or, at least, founded upon their representations; the third statement is by Mr. Petrie,—and we most cordially recommend it to the perusal of our readers. It is characterized, throughout, by moderation, good sense, and a feeling of duty. We have seldom read a narrative, which, on the first face of it, looked so much like truth. It has, of course, produced the ruin and dismissal of this gentleman, though we have not the shadow of doubt, that if his advice had been followed, every unpleasant occurrence which has happened in India might have been effectually prevented.

In the year 1802, a certain monthly allowance, proportioned to their respective ranks, was given to each officer of the coast

army, to enable him to provide himself with camp equipage; and a monthly allowance was also made to the commanding officers of the native corps, for the provision of the camp equipage of these corps. This arrangement was commonly called the *tent contract*. Its intention (as the pamphlet of Sir George Barlow's agent very properly states) was to combine facility of movement in military operations with views of economy. In the general revision of its establishments, set on foot for the purposes of economy by the Madras government, this contract was considered as entailing upon them a very unnecessary expense; and the then commander-in-chief, General Craddock, directed Colonel Munro, the quartermaster-general, to make a report to him upon the subject. The report, which was published almost as soon as it was made up, recommends the abolition of this contract; and, among other passages for the support of this opinion, has the following one:—

'Six years' experience of the practical effects of the existing system of the camp equipage equipment of the native army, has afforded means of forming a judgment relative to its advantages and efficiency which were not possessed by the persons who proposed its introduction; and an attentive examination of its operations during that period of time has suggested the following observations regarding it:—'

After stating that the contract is needlessly expensive—that it subjects the Company to the same charges for troops in garrison as for those in the field—the report proceeds to state the following observation, made on the authority of *six years' experience and attentive examination.*

'Thirdly. By granting the same allowances in peace and war for the equipment of native corps, while the expenses incidental to that charge are unavoidably much greater in war than peace, it places the interest and duty of officers commanding native corps in direct opposition to one another. It makes it their interest that their corps should not be in a state of efficiency fit for field service, and therefore furnishes strong inducements to neglect their most important duties.'—*Accurate and Authentic Narrative*, pp. 117, 118.

Here, then, is not only a proposal for reducing the emoluments of the principal officers of the Madras army, but a charge of the most flagrant nature. The first they might possibly have had some right to consider as a hardship; but, when severe and unjust invective was superadded to strict retrenchment —when their pay and their reputation were diminished at the same time—it cannot be considered as surprising, that such

treatment, on the part of the government, should lay the foundation for a spirit of discontent in those troops who had recently made such splendid additions to the Indian empire, and established, in the progress of these acquisitions, so high a character for discipline and courage. It must be remembered, that an officer on European and one on Indian service are in very different situations, and propose to themselves very different objects. The one never thinks of making a fortune by his profession, while the hope of ultimately gaining an independence is the principal motive for which the Indian officer banishes himself from his country. To diminish the emoluments of his profession is to retard the period of his return, and to frustrate the purpose for which he exposes his life and health in a burning climate, on the other side of the world. We make these observations, certainly, without any idea of denying the right of the East India Company to make any retrenchments they may think proper, but to show that it is a right which ought to be exercised with great delicacy and with sound discretion—that it should only be exercised when the retrenchment is of real importance—and, above all, that it should always be accompanied with every mark of suavity and conciliation. Sir George Barlow, on the contrary, committed the singular imprudence of stigmatizing the honour, and wounding the feelings of the Indian officers. At the same moment that he diminishes their emoluments he tells them, that the India Company take away their allowances for tents, because those allowances have been abused in the meanest, most profligate, and most unsoldier-like manner; for this and more than this is conveyed in the report of Colonel Munro, published by order of Sir George Barlow. If it was right, in the first instance, to diminish the emoluments of so vast an army, it was certainly indiscreet to give such reasons for it. If any individual had abused the advantages of the tent-contract, he might have been brought to a court-martial; and, if his guilt had been established, his punishment, we will venture to assert, would not have occasioned a moment of complaint or disaffection in the army; but that a civilian, a gentleman accustomed only to the details of commerce, should begin his government, over a settlement with which he was utterly unacquainted, by telling one of the bravest set of officers in the world, that, for six years past, they had been, in the basest manner, sacrificing their duty to their interest, does appear to us an instance of indiscretion

which, if frequently repeated, would soon supersede the necessity of any further discussion upon Indian affairs.

The whole transaction, indeed, appears to have been gone into with a disregard to the common professional feelings of an army, which is to us utterly inexplicable. The opinion of the commander-in-chief, General Macdowall, was never asked upon the subject; not a single witness was examined; the whole seems to have depended upon the report of Colonel Munro, the youngest staff-officer of the army, published in spite of the earnest remonstrance of Colonel Capper, the adjutant-general, and before three days had been given him to substitute his own plan, which Sir George Barlow had promised to read before the publication of Colonel Munro's report. Nay, this great plan of reduction was never even submitted to the military board, by whom all subjects of that description were, according to the orders of the court of directors, and the usage of the service, to be discussed and digested, previous to their coming before government.

Shortly after the promulgation of this very indiscreet paper, the commander-in-chief, General Macdowall, received letters from almost all the officers commanding native corps, representing, in terms adapted to the feelings of each, the stigma which was considered to attach to them individually, and appealing to the authority of the commander-in-chief for redress against such charges, and to his personal experience for their falsehood. To these letters the general replied, that the orders in question had been prepared *without any reference to his opinion*, and that, as the matter was so far advanced, he deemed it inexpedient to interfere. The officers commanding corps, finding that no steps were taken to remove the obnoxious insinuations, and considering that, while they remained, an indelible disgrace was cast upon their characters, prepared charges against Colonel Munro. These charges were forwarded to General Macdowall, referred by him to the judge advocate general, and returned, with his objections to them, to the officers who had preferred the charges. For two months after this period, General Macdowall appears to have remained in a state of uncertainty, as to whether he would or would not bring Colonel Munro to a court-martial upon the charges preferred against him by the commanders of corps. At last, urged by the discontents of the army, he determined in the affirmative; and Colonel Munro was put in arrest, preparatory to his

trial. Colonel Munro then appealed directly to the governor, Sir George Barlow; and was released by a positive order from him. It is necessary to state, that all appeals of officers to the government in India always pass through the hands of the commander-in-chief; and this appeal, therefore, of Colonel Munro, directed to the government, was considered by General Macdowall as a great infringement of military discipline. We have very great doubts whether Sir George Barlow was not guilty of another great mistake in preventing this court-martial from taking place. It is undoubtedly true, that no servant of the public is amenable to justice for doing what the government orders him to do; but he is not entitled to protection under the pretence of that order, if he has done something which it evidently did not require of him. If Colonel Munro had been ordered to report upon the conduct of an individual officer,—and it could be proved that, in gratification of private malice, he had taken that opportunity of stating the most infamous and malicious falsehoods,—could it be urged that his conduct might not be fairly scrutinized in a court of justice, or a court-martial? If this were otherwise, any duty delegated by government to an individual would become the most intolerable source of oppression: he might gratify every enmity and antipathy—indulge in every act of malice—vilify and traduce every one whom he hated—and then shelter himself under the plea of public service. Every body has a right to do what the supreme power orders him to do; but he does not thereby acquire a right to do what he has not been ordered to do. Colonel Munro was directed to make a report upon the state of the army: the officers whom he has traduced accuse him of reporting something utterly different from the state of the army—something which he and every body else knew to be different—and this for the malicious purpose of calumniating their reputation. If this was true, Colonel Munro could not plead the authority of government; for the authority of government was afforded to him for a very different purpose. In this view of the case, we cannot see how the dignity of government was attacked by the proposal of the court-martial, or to what other remedy those who had suffered from his abuse of his power could have had recourse. Colonel Munro had been promised, by General Macdowall, that the court-martial should consist of king's officers: there could not, there-

fore, have been any rational suspicion that his trial would have been unfair, or his judges unduly influenced.

Soon after Sir George Barlow had shown this reluctance to give the complaining officers an opportunity of re-establishing their injured character, General Macdowall sailed for England, and left behind him, for publication, an order, in which Colonel Munro was reprimanded for a violent breach of military discipline, in appealing to the governor otherwise than through the customary and prescribed channel of the commander-in-chief. As this paper is very short, and at the same time very necessary to the right comprehension of this case, we shall lay it before our readers.

'G. O. by the Commander-in-chief.

'The immediate departure of Lieutenant-General Macdowall from Madras will prevent his pursuing the design of bringing Lieutenant-Colonel Munro, quartermaster-general, to trial, for disrespect to the commander-in-chief, for disobedience of orders, and for contempt of military authority, in having resorted to the power of the civil government, in defiance of the judgment of the officer at the head of the army, who had placed him under arrest, on charges preferred against him by a number of officers commanding native corps, in consequence of which appeal *direct* to the honourable the president in council, Lieutenant-General Macdowall has received positive orders from the chief secretary to liberate Lieutenant-Colonel Munro from arrest.

'Such conduct on the part of Lieutenant-Colonel Munro, being destructive of subordination, subversive of military discipline, a violation of the sacred rights of the commander-in-chief, and holding out a most dangerous example to the service, Lieutenant-General Macdowall, in support of the dignity of the profession, and his own station and character, feels it incumbent on him to express his strong disapprobation of Lieutenant-Colonel Munro's unexampled proceedings, and considers it a solemn duty imposed upon him to reprimand Lieutenant-Colonel Munro in general orders; and he is hereby reprimanded accordingly. (Signed) T. Boles, D. A. G.'—*Accur. & Auth. Nar.* pp. 68, 69.

Sir George Barlow, in consequence of this paper, immediately deprived General Macdowall of his situation of commander-in-chief, which he had not yet resigned, though he had quitted the settlement; and as the official signature of the deputy adjutant-general appeared to the paper, that officer also was suspended from his situation. Colonel Capper, the adjutant-general, in the most honourable manner informed Sir George Barlow, that he was the culpable and responsible person; and that the name of his deputy only appeared to the paper in consequence of his positive order, and because he

himself happened to be absent on shipboard with General Macdowall. This generous conduct on the part of Colonel Capper involved himself in punishment, without extricating the innocent person whom he intended to protect. The Madras government, always swift to condemn, doomed him to the same punishment as Major Boles; and he was suspended from his office.

This paper we have read over with great attention; and we really cannot see wherein its criminality consists, or on what account it could have drawn down upon General Macdowall so severe a punishment as the privation of the high and dignified office which he held. The censure upon Colonel Munro was for a violation of the regular etiquette of the army, in appealing to the governor otherwise than through the channel of the commander-in-chief. This was an entirely new offence on the part of Colonel Munro. Sir George Barlow had given no opinion upon it; it had not been discussed between him and the commander-in-chief; and the commander-in-chief was clearly at liberty to act in this point as he pleased. He does not reprimand Colonel Munro for obeying Sir George Barlow's orders; for Sir George had given no orders upon the subject; but he blames him for transgressing a well-known and important rule of the service. We have great doubts if he was not quite right in giving this reprimand. But at all events, if he was wrong—if Colonel Munro was not guilty of the offence imputed, still the erroneous punishment which the general had inflicted merited no such severe retribution as that resorted to by Sir George Barlow. There are no reflections in the paper on the conduct of the governor or the government. The reprimand is grounded entirely upon the breach of that military discipline which it was undoubtedly the business of General Macdowall to maintain in the most perfect purity and vigour. Nor has the paper any one expression in it foreign to this purpose. We were, indeed, not a little astonished at reading it. We had imagined that a paper, which drew after it such a long train of dismissals and suspensions, must have contained a declaration of war against the Madras government,—an exhortation to the troops to throw off their allegiance,—or an advice to the natives to drive their intrusive masters away and become as free as their forefathers had left them. Instead of this, we find nothing more than a common reprimand from a commander-in-chief to a subordinate officer, for transgressing the

bounds of his duty. If Sir George Barlow had governed kingdoms six months longer, we cannot help thinking he would have been a little more moderate.

But whatever difference of opinion there may be respecting the punishment of General Macdowall, we can scarcely think there can be any with regard to the conduct observed towards the adjutant-general and his deputy. They were the subordinates of the commander-in-chief, and were peremptorily bound to publish any general orders which he might command them to publish. They would have been liable to very severe punishment if they had not; and it appears to us the most flagrant outrage against all justice to convert their obedience into a fault. It is true, no subordinate officer is bound to obey any order which is plainly, and to any common apprehension, illegal; but then the illegality must be quite manifest; the order must imply such a contradiction to common sense, and such a violation of duties superior to the duty of military obedience, that there can be scarcely two opinions on the subject. Wherever any fair doubt can be raised, the obedience of the inferior officer is to be considered as proper and meritorious. Upon any other principle, his situation is the most cruel imaginable: he is liable to the severest punishment, even to instant death, if he refuses to obey; and if he does obey, he is exposed to the animadversion of the civil power, which teaches him that he ought to have canvassed the order,—to have remonstrated against it,—and, in case this opposition proved ineffectual, to have disobeyed it. We have no hesitation in pronouncing the imprisonment of Colonel Capper and Major Boles to have been an act of great severity and great indiscretion, and such as might very fairly give great offence to an army, who saw themselves exposed to the same punishments, for the same adherence to their duties.

'The measure of removing Lieutenant-Colonel Capper and Major Boles,' says Mr. Petrie, 'was universally condemned by the most respectable officers in the army, and not more so by the officers in the Company's service, than by those of his majesty's regiments. It was felt by all as the introduction of a most dangerous principle, and setting a pernicious example of disobedience and insubordination to all the gradations of military rank and authority; teaching inferior officers to question the legality of the orders of their superiors, and bringing into discussion questions which may endanger the very existence of government. Our proceedings at the time operated like an electric shock, and gave rise to combinations, associations, and

discussions, pregnant with danger to every constituted authority in India. It was observed that the removal of General Macdowall (admitting the expediency of the measure), sufficiently vindicated the authority of government, and exhibited to the army a memorable proof that the supreme power is vested in the civil authority.

'The offence came from the general, and he was punished for it; but to suspend from the service the mere instruments of office, for the ordinary transmission of an order to the army, was universally condemned as an act of inapplicable severity, which might do infinite mischief, but could not accomplish any good or beneficial purpose. It was to court unpopularity, and adding fuel to the flame, which was ready to burst forth in every division of the army; that to vindicate the measure on the assumed illegality of the order, is to resort to a principle of a most dangerous tendency, capable of being extended in its application to purposes subversive of the foundations of all authority, civil as well as military. If subordinate officers are encouraged to judge of the legality of the orders of their superiors, we introduce a precedent of incalculable mischief, neither justified by the spirit nor practice of the laws. Is it not better to have the responsibility on the head of the authority which issues the order, except in cases so plain, that the most common capacity can judge of their being direct violations of the established and acknowledged laws? Is the intemperance of the expressions, the indiscretions of the opinions, the inflammatory tendency of the order, so eminently dangerous, so evidently calculated to excite to mutiny and disobedience, so strongly marked with features of criminality, as not to be mistaken? Was the order, I beg leave to ask, of this description, of such a nature as to justify the adjutant-general and his deputy in their refusal to publish it, to disobey the order of the commander-in-chief, to revolt from his authority, and to complain of him to the government? Such were the views I took of that unhappy transaction; and, as I foresaw serious mischief from the measure, not only to the discipline of the army, but even to the security of the civil government, it was my duty to state my opinion to Sir G. Barlow, and to use every argument which my reason suggested, to prevent the publication of the order. In this I completely failed; the suspension took effect; and the match was laid that has communicated the flame to almost every military mind in India. I recorded no dissent; for, as a formal opposition could only tend to exonerate myself from a certain degree of responsibility, without effecting any good public purpose, and might probably be misconstrued or misconceived by those to whom our proceedings were made known, it was a more honourable discharge of my duty to relinquish this advantage, than to comply with the mere letter of the order respecting dissents. I explained this motive of my conduct to Sir G. Barlow.'—*Statement of Facts*, pp. 20—23.

After these proceedings on the part of the Madras government, the disaffection of the troops rapidly increased; absurd and violent manifestoes were published by the general officers;

government was insulted; and the army soon broke out into open mutiny.

When the mutiny was fairly begun, the conduct of the Madras government in quelling it, seems nearly as objectionable as that by which it had been excited. The governor, in attempting to be dignified, perpetually fell into the most puerile irritability; and wishing to be firm, was guilty of injustice and violence. Invitations to dinner were made an affair of state. Long negotiations appear respecting whole corps of officers who refused to dine with Sir George Barlow; and the first persons in the settlement were employed to persuade them to eat the repast which his excellency had prepared for them. A whole school of military lads were sent away, for some trifling display of partiality to the cause of the army; and every unfortunate measure recurred to, which a weak understanding and a captious temper could employ to bring a government into contempt. Officers were dismissed; but dismissed without trial. and even without accusation. The object seemed to be to punish somebody: whether it was the right or the wrong person was less material. Sometimes the subordinate was selected, where the principal was guilty; sometimes the superior was sacrificed for the ungovernable conduct of those who were under his charge. The blows were strong enough; but they came from a man who shut his eyes, and struck at random;—conscious that he must do something to repel the danger,—but so agitated by its proximity that he could not look at it, or take a proper aim.

Among other absurd measures resorted to by this new eastern emperor, was the notable expedient of imposing a test upon the officers of the army, expressive of their loyalty and attachment to the government; and as this was done at a time when some officers were in open rebellion, others fluctuating, and many almost resolved to adhere to their duty, it had the very natural and probable effect of uniting them all in opposition to government. To impose a test, or trial of opinions, is at all times an unpopular species of inquisition; and at a period when men were hesitating whether they should obey or not, was certainly a very dangerous and rash measure. It could be no security; for men who would otherwise rebel against their government, certainly would not be restrained by any verbal barriers of this kind; and, at the same time that it promised no effectual security, it appeared to increase the danger of irri-

tated combination. This very rash measure immediately produced the strongest representations and remonstrances *from king's officers of the most unquestionable loyalty.*

'Lieutenant-Colonel Vesey, commanding at Palamcotah, apprehends the most fatal consequences to the tranquillity of the southern provinces, if Colonel Wilkinson makes any hostile movements from Trichinopoly. In different letters he states, that such a step must inevitably throw the company's troops into open revolt. He has ventured to write in the strongest terms to Colonel Wilkinson, entreating him not to march against the southern troops, and pointing out the ruinous consequences which may be expected from such a measure.

'Lieutenant-Colonel Stuart in Travancore, and Colonel Forbes in Malabar, have written, that they are under no apprehension for the tranquillity of those provinces, or for the fidelity of the company's troops, if government does not insist on enforcing the orders for the signature of the test; but that, if this is attempted, the security of the country will be imminently endangered. These orders are to be enforced; and I tremble for the consequences.'—*Statement of Facts*, pp. 53, 54.

The following letter from the Honourable Colonel Stuart, commanding a king's regiment, was soon after received by Sir George Barlow:—

'The late measures of government, as carried in effect at the Presidency and Trichinopoly, have created a most violent ferment among the corps here. At those places where the European force was so far superior in number to the native, the measure probably was executed without difficulty; but here, where there are seven battalions of sepoys, and a company and a half of artillery, to our one regiment, I found it totally impossible to carry the business to the same length, particularly as any tumult among our own corps would certainly bring the people of Travancore upon us.

'It is in vain, therefore, for me, with the small force I can depend upon, to attempt to stem the torrent here by any acts of violence.

'Most sincerely and anxiously do I wish that the present tumult may subside, without fatal consequences; which, if the present violent measures are continued, I much fear will not be the case. If blood is once spilt in the cause, there is no knowing where it may end; and the probable consequence will be, that India will be lost forever. So many officers of the army have gone to such lengths, that, unless a general amnesty is granted, tranquillity can never be restored.

'The honourable the governor in council will not, I trust, impute to me any other motives for having thus given my opinion. I am actuated solely by anxiety for the public good and the benefit of my country; and I think it my duty, holding the responsible situation I now do, to express my sentiments at so awful a period.

'Where there are any prospects of success, it might be right to persevere; but, where every day's experience proves, that the more coercive the measures adopted, the more violent are the consequences,

a different and more conciliatory line of conduct ought to be adopted. I have the honour, &c.'—*Statement of Facts*, pp. 55, 56.

'A letter from Colonel Forbes, commanding in Malabar, states that to prevent a revolt in the province, and the probable march of the company's troops towards Seringapatam, he had accepted of a modification in the test, to be signed by the officers on their parole, to make no hostile movements until the pleasure of the government was known.—Disapproved by government, and ordered to enforce the former orders.'—*Statement of Facts*, p. 61.

It can scarcely be credited, that in spite of these repeated remonstrances from officers, whose loyalty and whose knowledge of the subject could not be suspected, this test was ordered to be enforced, and the severest rebukes inflicted upon those who had presumed to doubt of its propriety, or suspend its operation. Nor let any man say that the opinionative person who persevered in this measure saw more clearly and deeply into the consequence of his own measures than those who were about him; for unless Mr. Petrie has been guilty, and repeatedly guilty, of a most downright and wilful falsehood, Sir George Barlow had not the most distant conception, during all these measures, that the army would ever venture upon revolt.

'Government, or rather the head of the government, was never correctly informed of the actual state of the army, or I think he would have acted otherwise; he was told, and he was willing to believe, that the discontents were confined to a small part of the troops; that a great majority disapproved of their proceedings, and were firmly and unalterably attached to government.'—*Statement of Facts*, pp. 23, 24.

In a conversation which Mr. Petrie had with Sir George Barlow upon the subject of the army—and in the course of which he recommends to that gentleman more lenient measures, and warns him of the increasing disaffection of the troops—he gives us the following account of Sir George Barlow's notions of the then state of the army:—

'Sir G. Barlow assured me I was greatly misinformed; that he could rely upon his intelligence; and would produce to council the most satisfactory and unequivocal proofs of the fidelity of nine-tenths of the army; that the discontents were confined almost exclusively to the southern division of the army; that the troops composing the subsidiary force, those in the ceded districts, in the centre, and a part of the northern division, were all untainted by those principles which had misled the rest of the army.'—*Statement of Facts*, pp. 27, 28.

All those violent measures, then, the spirit and wisdom of which have been so much extolled, were not measures of the consequences of which their author had the most distant sus-

picion. They were not the acts of a man who knew that he must unavoidably, in the discharge of his duty, irritate, but that he could ultimately overcome that irritation. They appear, on the contrary, to have proceeded from a most gross and scandalous ignorance of the opinions of the army. He expected passive submission, and met with universal revolt. So far, then, his want of intelligence and sagacity are unquestionably proved. He did not proceed with useful measures, and run the risk of a revolt, for which he was fully prepared; but he carried these measures into execution, firmly convinced that they would occasion no revolt at all.*

The fatal nature of this mistake is best exemplified by the means recurred to for its correction. The grand expedient relied upon was to instigate the natives, men and officers, to disobey their European commanders; an expedient by which present safety was secured at the expense of every principle upon which the permanence of our Indian empire rests. There never was in the world a more singular spectacle than to see a few thousand Europeans governing so despotically fifty or sixty millions of people, of different climate, religion, and habits—forming them into large and well-disciplined armies—and leading them out to the further subjugation of the native powers of India. But can any words be strong enough to paint the rashness of provoking a mutiny, which could only be got under by teaching these armies to act against their European commanders, and to use their actual strength in overpowering their officers?—or, is any man entitled to the praise of firmness and sagacity, who gets rid of a present danger by encouraging a principle which renders that danger more frequent and more violent. We will venture to assert, that a more unwise or a more unstatesmanlike action was never committed by any man in any country; and we are grievously mistaken, if any length of time elapse before the evil consequences of it are felt and deplored by every man who deems the welfare of our Indian colonies of any importance to the prosperity of the mother country. We cannot help contrasting the management of the discontents of the Madras army, with the manner in which the same difficulty was got over

* We should have been alarmed to have seen Sir George Barlow, junior, churchwarden of St. George's, Hanover Square,—an office so nobly filled by Giblet and Leslie: it was an huge affliction to see so incapable a man at the head of the Indian empire.

with the army at Bengal. A little increase of attention and emolument to the head of that army, under the management of a man of rank and talents, dissipated appearances which the sceptred pomp of a merchant's clerk would have blown up into a rebellion in three weeks; and yet the Bengal army is at this moment in as good a state of discipline, as the English fleet to which Lord Howe made such abject concessions—and in a state to be much more permanently depended upon than the army which has been so effectually ruined by the inconveniently great soul of the present governor of Madras.

Sir George Barlow's agent, though faithful to his employment of calumniating those who were in any degree opposed to his principal, seldom loses sight of sound discretion, and confines his invectives to whole bodies of men, except where the dead are concerned. Against Colonel Capper, General Macdowall, and Mr. Roebuck, who are now no longer alive to answer for themselves, he is intrepidly severe; in all these instances he gives a full loose to his sense of duty, and inflicts upon them the severest chastisement. In his attack upon the civilians, he is particularly careful to keep to generals; and so rigidly does he adhere to this principle, that he does not support his assertion, that the civil service was disaffected as well as the military, by one single name, one single fact, or by any other means whatever, than his own affirmation of the fact. The truth (as might be supposed to be the case from such sort of evidence) is diametrically opposite. Nothing could be more exemplary, during the whole of the rebellion, than the conduct of the civil servants; and though the courts of justice were interfered with,—though the most respectable servants of the company were punished for the verdicts they had given as jurymen,—though many were dismissed for the slightest opposition to the pleasure of government, even in the discharge of official duties, where remonstrance was absolutely necessary, —though the greatest provocation was given, and the greatest opportunity afforded to the civil servants for revolt,—there is not a single instance in which the shadow of disaffection has been proved against any civil servant. This we say, from an accurate examination of all the papers which have been published on the subject; and we do not hesitate to affirm, that there never was a more unjust, unfounded, and profligate charge made against any body of men; nor have we often witnessed a more complete scene of folly and violence, than the

conduct of the Madras government to its civil servants, exhibited during the whole period of the mutiny.

Upon the whole, it appears to us, that the Indian army was ultimately driven into revolt by the indiscretion and violence of the Madras government; and that every evil which has happened might, with the greatest possible facility, have been avoided.

We have no sort of doubt that the governor always meant well; but, we are equally certain that he almost always acted ill; and where incapacity rises to a certain height, for all practical purposes the motive is of very little consequence. That the late General Macdowall was a weak man, is unquestionable. He was also irritated (and not without reason), because he was deprived of a seat in council, which the commanders before him had commonly enjoyed. A little attention, however, on the part of the government—the compliment of consulting him upon subjects connected with his profession—any of those little arts which are taught, not by a consummate political skill, but dictated by common good nature, and by the habit of mingling with the world, would have produced the effects of conciliation, and employed the force of General Macdowall's authority in bringing the army into a better temper of mind. Instead of this, it appears to have been almost the object, and if not the object, certainly the practice, of the Madras government to neglect and insult this officer. Changes of the greatest importance were made without his advice, and even without any communication with him; and it was too visible to those whom he was to command, that he himself possessed no sort of credit with his superiors. As to the tour which General Macdowall is supposed to have made for the purpose of spreading disaffection among the troops, and the part which he is represented by the agents to have taken in the quarrels of the civilians with the government, we utterly discredit these imputations. They are unsupported by any kind of evidence; and we believe them to be mere inventions, circulated by the friends of the Madras government. General Macdowall appears to us to have been a weak, pompous man; extremely out of humour; offended with the slights he had experienced; and whom any man of common address might have managed with the greatest ease: but we do not see, in any part of his conduct, the shadow of disloyalty and disaffection; and we are persuaded that the assertion would never

have been made, if he himself had been alive to prove its injustice.

Besides the contemptuous treatment of General Macdowall, we have great doubts whether the Madras government ought not to have suffered Colonel Monro to be put upon his trial; and to punish the officers who solicited that trial for the purgation of their own characters, appears to us (whatever the intention was) to have been an act of mere tyranny. We think, too, that General Macdowall was very hastily and unadvisedly removed from his situation; and upon the unjust treatment of Colonel Capper and Major Boles there can scarcely be two opinions. In the progress of the mutiny, instead of discovering in the Madras government any appearances of temper and wisdom, they appear to us to have been quite as much irritated and heated as the army, and to have been betrayed into excesses nearly as criminal, and infinitely more contemptible and puerile. The head of a great kingdom bickering with his officers about invitations to dinner—the commander-in-chief of the forces negotiating that the dinner should be loyally eaten—the obstinate absurdity of the test—the total want of selection in the objects of punishment—and the wickedness, or the insanity, of teaching the Sepoy to rise against his European officer—the contempt of the decision of juries in civil cases—and the punishment of the juries themselves; such a system of conduct as this would infallibly doom any individual to punishment, if it did not, fortunately for him, display precisely that contempt of men's feelings, and that passion for insulting multitudes, which is so congenial to our present government at home, and which passes now so currently for wisdom and courage. By these means, the liberties of great nations are frequently destroyed—and destroyed with impunity to the perpetrators of the crime. In distant colonies, however, governors who attempt the same system of tyranny are in no little danger from the indignation of their subjects; for though men will often yield up their happiness to kings who have been always kings, they are not inclined to show the same deference to men who have been merchants' clerks yesterday, and are kings to-day. From a danger of this kind, the governor of Madras appears to us to have very narrowly escaped. We sincerely hope that he is grateful for his good luck; and that he will now awake from his gorgeous dreams of mercantile monarchy, to good nature, moderation, and common sense.

BISHOP OF LINCOLN'S CHARGE.*

(Edinburgh Review, 1813.)

A Charge delivered to the Clergy of the Diocese of Lincoln, at the Triennial Visitation of that Diocese in May, June, and July, 1812. By George Tomline, D.D., F.R.S., Lord Bishop of Lincoln. London. Cadell and Co. 4to.

It is a melancholy thing to see a man, clothed in soft raiment, lodged in a public palace, endowed with a rich portion of the product of other men's industry, using all the influence of his splendid situation, however conscientiously, to deepen the ignorance, and inflame the fury, of his fellow-creatures. These are the miserable results of that policy which has been so frequently pursued for these fifty years past, of placing men of mean, or middling abilities, in high ecclesiastical stations. In ordinary times, it is of less importance who fills them; but when the bitter period arrives, in which the people must give up some of their darling absurdities;—when the senseless clamour, which has been carefully handed down from father fool to son fool, can be no longer indulged;—when it is of incalculable importance to turn the people to a better way of thinking; the greatest impediments to all amelioration are too often found among those to whose councils, at such periods, the country ought to look for wisdom and peace. We will suppress, however, the feelings of indignation which such productions, from such men, naturally occasion. We will give the Bishop of Lincoln credit for being perfectly sincere;—we will suppose, that every argument he uses has not been used and refuted ten thousand times before; and we will sit down as patiently to defend the religious liberties of mankind, as the reverend prelate has done to abridge them.

We must begin with denying the main position upon which

* It is impossible to conceive the mischief which this mean and cunning prelate did at this period.

the Bishop of Lincoln has built his reasoning—*The Catholic religion is not tolerated in England.* No man can be fairly said to be permitted to enjoy his own worship who is punished for exercising that worship. His lordship seems to have no other idea of punishment, than lodging a man in the *poultry compter*, or flogging him at the cart's tail, or fining him a sum of money;—just as if incapacitating a man from enjoying the dignities and emoluments to which men of similar condition, and other faith, may fairly aspire, was not frequently the most severe and galling of all punishments. This limited idea of the nature of punishment is the more extraordinary, as *incapacitation* is actually one of the most common punishments in some branches of our law. The sentence of a court-martial frequently purports, that a man is rendered for ever *incapable* of serving his majesty, &c. &c.; and a person not in holy orders, who performs the functions of a clergyman, is rendered for ever *incapable* of holding any preferment in the church. There are, indeed, many species of offence for which no punishment more apposite and judicious could be devised. It would be rather extraordinary, however, if the court, in passing such a sentence, were to assure the culprit, 'that such incapacitation was not by them considered as a punishment; that it was only exercising a right inherent in all governments, of determining who should be eligible for office and who ineligible.' His lordship thinks the toleration complete, because he sees a permission in the statutes for the exercise of the Roman Catholic worship. He sees the permission—but he does not choose to see the consequences to which they are exposed who avail themselves of this permission. It is the liberality of a father who says to a son, 'Do as you please, my dear boy; follow your own inclination. Judge for yourself; you are free as air. But remember, if you marry that lady, I will cut you off with a shilling.' We have scarcely ever read a more solemn and frivolous statement than the Bishop of Lincoln's antithetical distinction between persecution and the denial of political power.

'It is sometimes said, that papists, being excluded from power, are consequently persecuted; as if exclusion from power and religious persecution were convertible terms. But surely this is to confound things totally distinct in their nature. Persecution inflicts positive punishment upon persons who hold certain religious tenets, and endeavours to accomplish the renunciation and extinction of those tenets by forcible means: exclusion from power is entirely negative in its

operation—it only declares that those who hold certain opinions shall not fill certain situations; but it acknowledges men to be perfectly free to hold those opinions. Persecution compels men to adopt a prescribed faith, or to suffer the loss of liberty, property, or even life: exclusion from power prescribes no faith; it allows men to think and believe as they please, without molestation or interference. Persecution requires men to worship God in one and in no other way: exclusion from power neither commands nor forbids any mode of divine worship—it leaves the business of religion, where it ought to be left, to every man's judgment and conscience. Persecution proceeds from a bigoted and sanguinary spirit of intolerance; exclusion from power is founded in the natural and rational principle of self-protection and self-preservation, equally applicable to nations and to individuals. History informs us of the mischievous and fatal effects of the one, and proves the expediency and necessity of the other.'—(pp. 16, 17.)

We will venture to say, there is no one sentence in this extract which does not contain either a contradiction, or a misstatement. For how can that law acknowledge men to be perfectly free to hold an opinion, which excludes from desirable situations all who do hold that opinion? How can that law be said neither to molest, nor interfere, which meets a man in every branch of industry and occupation, to institute an inquisition into his religious opinions? And how is the business of religion left to every man's judgment and conscience, where so powerful a *bonus* is given to one set of religious opinions, and such a mark of infamy and degradation fixed upon all other modes of belief? But this is comparatively a very idle part of the question. Whether the present condition of the Catholics is or is not to be denominated a perfect state of toleration, is more a controversy of words than things. That they are subject to some restraints, the bishop will admit: the important question is, whether or not these restraints are necessary? For his lordship will, of course, allow, that every restraint upon human liberty is an evil in itself; and can only be justified by the superior good which it can be shown to produce. My lord's fears upon the subject of Catholic emancipation are conveyed in the following paragraph:

'It is a principle of our constitution, that the king should have advisers in the discharge of every part of his royal functions—and is it to be imagined that Papists would advise measures in support of the cause of Protestantism? A similar observation may be applied to the two Houses of Parliament: would Popish peers or Popish members of the House of Commons, enact laws for the security of the Protestant

government? Would they not rather repeal the whole Protestant code, and make Popery again the established religion of the country?' —(p. 14.)

And these are the apprehensions which the clergy of the diocese have prayed my lord to make public.

Kind Providence never sends an evil without a remedy:—and arithmetic is the natural cure for the passion of fear. If a coward can be made to count his enemies, his terrors may be reasoned with, and he may think of ways and means of counteraction. Now, might it not have been expedient that the reverend prelate, before he had alarmed his country clergy with the idea of so large a measure as the repeal of Protestantism, should have counted up the probable number of Catholics who would be seated in both houses of Parliament? Does he believe that there would be ten Catholic peers, and thirty Catholic commoners? But, admit double that number (and more, Dr. Duigenan himself would not ask,)—will the Bishop of Lincoln seriously assert, that he thinks the whole Protestant code in danger of repeal from such an admixture of Catholic legislators as this? Does he forget, amid the innumerable answers which may be made to such sort of apprehensions, what a picture he is drawing of the weakness and versatility of Protestant principles?—that an handful of Catholics, in the bosom of a Protestant legislature, is to overpower the ancient jealousies, the fixed opinions, the inveterate habits of twelve millions of people?—that the king is to apostatize, the clergy to be silent, and the Parliament be taken by surprise?—that the nation is to go to bed over night, and to see the Pope walking arm in arm with Lord Castlereagh the next morning?—One would really suppose, from the bishop's fears, that the civil defences of mankind were, like their military bulwarks, transferred, by superior skill and courage, in a few hours, from the vanquished to the victor—that the destruction of a church was like the blowing up of a mine,—deans, prebendaries, churchwardens and overseers, all up in the air in an instant. Does his lordship really imagine, when the mere dread of the Catholics becoming legislators has induced him to charge his clergy, and his agonized clergy, to extort from their prelate the publication of the charge, that the full and mature danger will produce less alarm than the distant suspicion of it has done in the present instance?—that the Protestant writers, whose pens are now up to the feather in ink, will, at any future period, yield up their

church, without passion, pamphlet, or pugnacity? We do not blame the Bishop of Lincoln for being afraid; but we blame him for not rendering his fears intelligible and tangible—for not circumscribing and particularizing them by some individual case—for not showing us how it is possible that the Catholics (granting their intentions to be as bad as possible) should ever be able to ruin the Church of England. His lordship appears to be in a fog; and, as daylight breaks in upon him, he will be rather disposed to disown his panic. The noise he hears is not roaring,—but braying; the teeth and the mane are all imaginary; there is nothing but ears. It is not a lion that stops the way, but an ass.

One method his lordship takes, in handling this question, is by pointing out dangers that are *barely possible*, and then treating of them as if they deserved the active and present attention of serious men. But if no measure is to be carried into execution, and if no provision is safe in which the minute inspection of an ingenious man cannot find the *possibility* of danger, then all human action is impeded, and no human institution is safe or commendable. The king has the power of pardoning,—and so every species of guilt may remain unpunished: he has a negative upon legislative acts, and so no law may pass. None but Presbyterians may be returned to the House of Commons,—and so the Church of England may be voted down. The Scottish and Irish members may join together in both houses, and dissolve both unions. If probability is put out of sight,—and if, in the enumeration of dangers, it is sufficient to state any which, by remote contingency, *may* happen, then is it time that we should begin to provide against all the host of perils which we have just enumerated, and which are many of them as likely to happen, as those which the reverend prelate has stated in his charge. His lordship forgets that the Catholics are not asking for election but for *eligibility*—not to be admitted into the cabinet, but not to be excluded from it. A century may elapse before any Catholic actually becomes a member of the cabinet; and no event can be more utterly destitute of probability, than that they should gain an ascendency there, and direct that ascendency against the Protestant interest. If the bishop really wishes to know upon what our security is founded;—it is *upon the prodigious and decided superiority of the Protestant interest in the British nation, and in the United Parliament.* No Pro-

testant king would select such a cabinet, or countenance such measures; no man would be mad enough to attempt them; the English Parliament and the English people would not endure it for a moment. No man, indeed, but under the sanctity of the mitre, would have ventured such an extravagant opinion. —Wo to him, if he had been *only* a dean. But, in spite of his venerable office, we must express our decided belief, that his lordship (by no means averse to a good bargain) would not pay down five pounds, to receive fifty millions for his posterity, whenever the majority of the cabinet should be (Catholic emancipation carried) members of the Catholic religion. And yet, upon such terrors as these, which, when put singly to him, his better senses would laugh at, he has thought fit to excite his clergy to petition, and done all in his power to increase the mass of hatred against the Catholics.

It is true enough, as his lordship remarks, that events do not depend upon laws alone, but upon the wishes and intentions of those who administer these laws. But then his lordship totally puts out of sight two considerations—the improbability of Catholics ever reaching the highest offices of the state—and those fixed Protestant opinions of the country, which would render any attack upon the established church so hopeless and, therefore, so improbable. Admit a supposition (to us perfectly ludicrous, but still necessary to the bishop's argument), that the cabinet council consisted entirely of Catholics, we should even then have no more fear of their making the English people Catholics, than we should have of a cabinet of butchers making the Hindoos eat beef. The bishop has not stated the true and great security for any course of human actions. It is not the word of the law, nor the spirit of the government, but the general way of thinking among the people, especially when that way of thinking is ancient, exercised upon high interests, and connected with striking passages in history. The Protestant church does not rest upon the little narrow foundations where the Bishop of Lincoln supposes it to be placed: if it did, it would not be worth saving. It rests upon the general opinion entertained by a free and reflecting people, that the doctrines of the church are true, her pretensions moderate, and her exhortations useful. It is accepted by a people who have, from good taste, an abhorrence of sacerdotal mummery; and from good sense, a dread of sacerdotal ambition. Those feelings, so generally diffused, and so clearly pronounced on all occa-

sions, are our real bulwarks against the Catholic religion, and the real cause which makes it so safe for the best friends of the church to diminish (by abolishing the test laws), so very fertile a source of hatred to the state.

In the 15th page of his lordship's charge, there is an argument of a very curious nature.

'Let us suppose,' (says the Bishop of Lincoln), 'that there had been no test laws, no disabling statutes, in the year 1745, when an attempt was made to overthrow the Protestant government, and to place a popish sovereign upon the throne of these kingdoms; and let us suppose, that the leading men in the houses of Parliament, that the ministers of state, and the commanders of our armies, had then been Papists. Will any one contend, that that formidable rebellion, supported as it was by a foreign enemy, would have been resisted with the same zeal, and suppressed with the same facility, as when all the measures were planned and executed by sincere Protestants?'—(p. 15.)

And so his lordship means to infer, that it would be foolish to abolish the laws against the Catholics *now*, because it would have been foolish to have abolished them at some other period;—that a measure must be bad, because there was formerly a combination of circumstances, when it *would* have been bad. His lordship might, with almost equal propriety, debate what ought to be done if Julius Cæsar were about to make a descent upon our coasts; or lament the impropriety of emancipating the Catholics, because the Spanish Armada was putting to sea. The fact is, that Julius Cæsar is dead—the Spanish Armada was defeated in the reign of Queen Elizabeth—for half a century there has been no disputed succession—the situation of the world is changed—and, because it is changed, we can do now what we could not do then. And nothing can be more lamentable than to see this respectable prelate wasting his resources in putting imaginary and inapplicable cases, and reasoning upon their solution, as if they had any thing to do with present affairs.

These remarks entirely put an end to the common mode of arguing *à Gulielmo*. What did King William do?—what would King William say? &c. King William was in a very different situation from that in which we are placed. The whole world was in a very different situation. The great and glorious authors of the Revolution (as they are commonly denominated) acquired their greatness and their glory, not by a superstitious reverence for inapplicable precedents, but by

taking hold of present circumstances to lay a deep foundation for liberty; and then using old names for new things, they left the Bishop of Lincoln, and other good men, to suppose that they had been thinking all the time about ancestors.

Another species of false reasoning, which pervades the Bishop of Lincoln's charge is this: He states what the interests of men are, and then takes it for granted that they will eagerly and actively pursue them; laying totally out of the question the probability or improbability of their effecting their object, and the influence which this balance of chances must produce upon their actions. For instance, it is the interest of the Catholics that our church should be subservient to theirs. Therefore, says his lordship, the Catholics will enter into a conspiracy against the English church. But, is it not also the decided interest of his lordship's butler that he should be bishop, and the bishop his butler? That the crozier and the corkscrew should change hands,—and the washer of the bottles which they had emptied become the diocesan of learned divines? What has prevented this change, so beneficial to the upper domestic, but the extreme improbability of success, if the attempt were made; an improbability so great, that we will venture to say, the very notion of it has scarcely once entered into the understanding of the good man. Why, then, is the reverend prelate, who lives on so safely and contentedly with *John*, so dreadfully alarmed at the Catholics? And why does he so completely forget, in their instance alone, that men do not merely strive to obtain a thing because it is good, but always mingle with the excellence of the object a consideration of the chance of gaining it?

The Bishop of Lincoln (p. 19,) states it as an argument against concession to the Catholics, that we have enjoyed 'internal peace and entire freedom from all religious animosities and feuds since the Revolution.' The fact, however, is not more certain than conclusive against his view of the question. For, since that period, the worship of the Church of England has been abolished in Scotland—the corporation and test acts repealed in Ireland—and the whole of this king's reign has been one series of concessions to the Catholics. Relaxation, then, (and we wish this had been remembered at the charge) of penal laws, on subjects of religious opinion, is perfectly compatible with *internal peace*, and exemption from religious animosity. But the bishop is always fond of

lurking in generals, and cautiously avoids coming to any specific instance of the dangers which he fears.

'It is declared in one of the 39 Articles, that the king is head of our church, without being subject to any foreign power; and it is expressly said that the Bishop of Rome has no jurisdiction within these realms. On the contrary, Papists assert, that the pope is supreme head of the whole Christian church, and that allegiance is due to him from every individual member, in all spiritual matters. This direct opposition to one of the fundamental principles of the ecclesiastical part of our constitution, is alone sufficient to justify the exclusion of Papists from all situations of authority. They acknowledge, indeed, that obedience in civil matters is due to the king. But cases must arise, in which civil and religious duties will clash; and he knows but little of the influence of the Popish religion over the mind of its votaries, who doubts which of these duties would be sacrificed to the other. Moreover, the most subtle casuistry cannot always discriminate between temporal and spiritual things; and in truth, the concerns of this life not unfrequently partake of both characters.'—(pp. 21, 22.)

We deny entirely that any case can occur, where the exposition of a doctrine purely speculative, or the arrangement of a mere point of church discipline, can interfere with civil duties. The Roman Catholics are Irish and English citizens at this moment; but no such case has occurred. There is no instance in which obedience to the civil magistrate has been prevented, by an acknowledgment of the spiritual supremacy of the pope. The Catholics have given (in an oath which we suspect the bishop never to have read) the most solemn pledge, that their submission to their spiritual ruler should never interfere with their civil obedience. The hypothesis of the Bishop of Lincoln is, that it must very often do so. The fact is, that it has never done so.

His lordship is extremely angry with the Catholics for refusing to the crown a *veto* upon the appointment of their bishops. He forgets, that in those countries of Europe where the crown interferes with the appointment of bishops, the reigning monarch is a Catholic,—which makes all the difference. We sincerely wish that the Catholics would concede this point; but we cannot be astonished at their reluctance to admit the interference of a Protestant prince with their bishops. What would his lordship say to the interference of any Catholic power with the appointment of the English sees?

Next comes the stale and thousand times refuted charge against the Catholics, that they think the pope has the power

of dethroning heretical kings; and that it is the duty of every Catholic to use every possible means to root out and destroy heretics, &c. To all of which may be returned this one conclusive answer, that the Catholics are ready to deny these doctrines upon oath. And as the whole controversy is, whether the Catholics shall, by means of oaths, be excluded from certain offices in the state;—those who contend that the continuation of these excluding oaths is essential to the public safety, must admit, that oaths are binding upon Catholics, and a security to the state that what they swear to is true.

It is right to keep these things in view—and to omit no opportunity of exposing and counteracting that spirit of intolerant zeal or intolerable time-serving, which has so long disgraced and endangered this country. But the truth is, that we look upon this cause as already gained;—and while we warmly congratulate the nation on the mighty step it has recently made towards increased power and entire security, it is impossible to avoid saying a word upon the humiliating and disgusting, but at the same time most edifying spectacle, which has lately been exhibited by the anti-Catholic addressers. That so great a number of persons should have been found with such a proclivity to servitude (for honest bigotry had but little to do with the matter), as to rush forward with clamours in favour of intolerance, upon a mere surmise that this would be accounted as acceptable service by the present possessors of patronage and power, affords a more humiliating and discouraging picture of the present spirit of the country, than any thing else that has occurred in our remembrance. The edifying part of the spectacle is the contempt with which their officious devotions have been received by those whose favour they were intended to purchase,—and the universal scorn and derision with which they were regarded by independent men of all parties and persuasions. The catastrophe, we think, teaches two lessons;—one to the time-servers themselves, not to obtrude their servility on the government, till they have reasonable ground to think it is wanted;—and the other to the nation at large, not to imagine that a base and interested clamour in favour of what is supposed to be agreeable to government, however loudly and extensively sounded, affords any indication at all, either of the general sense of the country, or even of what is actually contemplated by those in the adminis-

tration of its affairs. The real sense of the country has been proved, on this occasion, to be directly against those who presumptuously held themselves out as its organs;—and even the ministers have made a respectable figure, compared with those who assumed the character of their champions.

MADAME D'EPINAY. (Edinburgh Review, 1818.)

Mémoires et Correspondence de Madame D'Epinay. 3 vols. 8vo. Paris, 1818.

There used to be in Paris, under the ancient regime, a few women of brilliant talents, who violated all the common duties of life, and gave very pleasant little suppers. Among these supped and sinned Madame d'Epinay—the friend and companion of Rousseau, Diderot, Grimm, Holbach, and many other literary persons of distinction of that period. Her principal lover was Grimm; with whom was deposited, written in feigned names, the history of her life. Grimm died—his secretary sold the history—the feigned names have been exchanged for the real ones—and her works now appear abridged in three volumes octavo.

Madame d'Epinay, though far from an immaculate character, has something to say in palliation of her irregularities. Her husband behaved abominably; and alienated, by a series of the most brutal injuries, an attachment which seems to have been very ardent and sincere, and which, with better treatment, would probably have been lasting. For, in all her aberrations, Mad. d'Epinay seems to have had a tendency to be constant. Though extremely young when separated from her husband, she indulged herself with but two lovers for the rest of her life;—to the first of whom she seems to have been perfectly faithful, till he left her at the end of ten or twelve years;—and to Grimm, by whom he was succeeded, she appears to have given no rival till the day of her death. The account of the life she led, both with her husband and her lovers, brings upon the scene a great variety of French characters, and lays open very completely the interior of French life and manners. But there are some letters and passages which ought not to have been published; which a sense of common decency and morality ought to have suppressed; and which, we feel assured, would never have seen the light in this country.

A French woman seems almost always to have wanted the

flavour of prohibition, as a necessary condiment to human life. The provided husband was rejected, and the forbidden husband introduced in ambiguous light, through posterns and secret partitions. It was not the union to one man that was objected to—for they dedicated themselves with a constancy which the most household and parturient woman in England could not exceed;—but the thing wanted was the wrong man, the gentleman without the ring—the master unsworn to at the altar—the person unconsecrated by priests—

'Oh! let me taste thee unexcis'd by kings.'

The following strikes us as a very lively picture of the ruin and extravagance of a fashionable house in a great metropolis.

'M. d'Epinay a complété son domestique. Il a trois laquais, et moi deux; je n'en ai pas voulu davantage. Il a un valet de chambre; et il vouloit aussi que je prisse une seconde femme, mais comme je n'en ai que faire, j'ai tenu bon. Enfin les officiers, les femmes, les valets se montent au nombre de seize. Quoique la vie que je mène soit assez uniforme, j'espère n'être pas obligée d'en changer. Celle de M. d'Epinay est différente. Lorsqu'il est levé, son valet de chambre se met en devoir de l'accommoder. Deux laquais sont debout à attendre ordres. Le premier secrétaire vient avec l'intention de lui rendre compte des lettres qu'il a reçues de son département, et qu'il est chargé d'ouvrir; il doit lire les réponses et les faire signer; mais il est interrompu deux cents fois dans cette occupation par toutes sortes d'espèces imaginables. C'est un maquignon qui a des chevaux uniques à vendre, mais qui sont retenus par un seigneur; ainsi il est venu pour ne pas manquer à sa parole; car on lui en donneroit le double, qu'on ne pourroit faire affaire. Il en fait une description séduisante, on demande le prix. Le seigneur un tel en offre soixante louis.—Je vous en donne cent.—Cela est inutile, à moins qu'il ne se dédise. Cependant l'on conclut à cent louis sans les avoir vus, car le lendemain le seigneur ne manque pas de se dédire: voilà ce que j'ai vu et entendu la semaine dernière.

'Ensuite c'est un polisson qui vient brailler un air, et à qui on accorde sa protection pour le faire entrer à l'Opéra, après lui avoir donné quelques leçons de bon goût, et lui avoir appris ce que c'est que la propreté du chant françois; c'est une demoiselle qu'on fait attendre pour savoir si je suis encore là. Je me lève et je m'en vais; les deux laquais ouvrent les deux battans pour me laisser sortir, moi qui passerois alors par le trou d'une aiguille; et les deux estafiers crient dans l'anti-chambre: Madame, messieurs, voilà madame. Tout le monde se range en haie, et ces messieurs sont des marchands d'étoffes, des marchands d'instrumens, des bijoutiers, des colporteurs, des laquais, des décroteurs, des créanciers; enfin tout ce que vous pouvez imaginer de plus ridicule et de plus affligeant. Midi ou une heure sonne avant que cette toilette soit achevée, et le secrétaire, qui,

sans doute, sait par expérience l'impossibilité de rendre un compte détaillé des affaires, a un petit bordereau qu'il remet entre les mains de son maître pour l'instruire de ce qu'il doit dire à l'assemblée. Une autre fois il sort à pied ou en fiacre, rentre à deux heures, fait comme un brûleur de maison, dîne tête à tête avec moi, ou admet en tiers son premier secrétaire qui lui parle de la nécessité de fixer chaque article de dépense, de donner des délégations pour tel ou tel objet. La seule réponse est: Nous verrons cela. Ensuite il court le monde et les spectacles; et il soupe en ville quand il n'a personne à souper chez lui. Je vois que mon temps de repos est fini.'—I. pp. 308—310.

A very prominent person among the early friends of Madame d'Epinay, is Mademoiselle d'Ette, a woman of great French respectability, and circulating in the best society; and, as we are painting French manners, we shall make no apology to the serious part of our English readers, for inserting this sketch of her history and character by her own hand.

'Je connois, me dit-elle ensuite, votre franchise et votre discrétion: dites-moi naturellement quelle opinion on a de moi dans le monde. La meilleure, lui dis-je, et telle que vous ne pourriez la conserver si vous pratiquiez la morale que vous venez de me prêcher. Voilà où je vous attendois, me dit-elle. Depuis dix ans que j'ai perdu ma mère, je fus séduite par le chevalier de Valory qui m'avoit vu, pour ainsi dire, elever; mon extrême jeunesse et la confiance que j'avois en lui ne me permirent pas d'abord de me défier de ses vues. Je fus longtemps à m'en apercevoir, et lorsque je m'en aperçus, j'avois pris tant de goût pour lui, que je n'eus pas la force de lui résister. Il me vint des scrupules; il les leva, en me promettant de m'épouser. Il y travailla en effet; mais voyant l'opposition que sa famille y apportoit, à cause de la disproportion d'âge et de mon peu de fortune; et me trouvant, d'ailleurs, heureuse comme j'étois, je fus la première à étouffer mes scrupules, d'autant plus qu'il est assez pauvre. Il commençoit à faire des réflexions, je lui proposai de continuer à vivre comme nous étions; il l'accepta. Je quittai ma province, et je le suivis à Paris; vous voyez comme j'y vis. Quatre fois la semaine il passe sa journée chez moi; le reste du temps nous nous contentons réciproquement d'apprendre de nos nouvelles, à moins que le hasard ne nous fasse rencontrer. Nous vivons heureux, contens; peut-être ne le serions nous pas tant si nous étions mariés.'—I. pp. 111, 112.

This seems a very spirited, unincumbered way of passing through life; and it is some comfort, therefore, to a matrimonial English reader, to find Mademoiselle d'Ette kicking the chevalier out of doors towards the end of the second volume. As it is a scene very edifying to rakes, and those who decry the happiness of the married state, we shall give it in the words of Madame d'Epinay.

'Une nuit, dont elle avoit passé la plus grande partie dans l'inquié-

tude, elle entre chez le chevalier: il dormoit; elle le réveille, s'assied sur son lit, et entame une explication avec toute la violence et la fureur qui l'animoient. Le chevalier, après avoir employé vainement, pour le calmer, tous les moyens que sa bonté naturelle lui suggéra, lui signifia enfin très-précisément qu'il alloit se séparer d'elle pour toujours, et fuir un enfer auquel il ne pouvoit plus tenir. Cette confidence, qui n'étoit pas faite pour l'appaiser, redoubla sa rage. Puisqu'il est ainsi, dit-elle, sortez tout à l'heure de chez moi; vous deviez partir dans quatre jours, c'est vous rendre service de vous faire partir dans l'instant. Tout ce qui est ici m'appartient; le bail est en mon nom: il ne me convient plus de vous souffrir chez moi: levez-vous, monsieur, et songez à ne rien emporter sans ma permission.'—II. pp. 193, 194.

Our English method of asking leave to separate from Sir William Scott and Sir John Nicol is surely better than this.

Any one who provides good dinners for clever people, and remembers what they say, cannot fail to write entertaining Mémoires. Among the early friends of Madame d'Epinay was Jean Jacques Rousseau—she lived with him in considerable intimacy; and no small part of her book is taken up with accounts of his eccentricity, insanity, and vice.

'Nous avons débuté par *l'Engagement téméraire*, comédie nouvelle, de M. Rousseau, ami de Francueil qui nous l'a présenté. L'auteur a joué un rôle dans sa pièce. Quoique ce ne soit qu'une comédie de société, elle a eu un grand succès. Je doute cependant qu'elle pût réussir au théâtre; mais c'est l'ouvrage d'un homme de beaucoup d'esprit, et peut-être d'un homme singulier. Je ne sais pas trop cependant si c'est ce que j'ai vu de l'auteur ou de la pièce qui me fait juger ainsi. Il est complimenteur sans être poli, ou au moins sans en avoir l'air. Il paroît ignorer les usages du monde; mais il est aisé de voir qu'il a infiniment d'esprit. Il a le teint brun: et des yeux pleins de feu animent sa physionomie. Lorsqu'il a parlé et qu'on le regarde, il paroît joli; mais lorsqu'on se le rappelle, c'est toujours en laid. On dit qu'il est d'une mauvaise santé, et qu'il a des souffrances qu'il cache avec soin, par je ne sais quel principe de vanité; c'est apparemment ce qui lui donne, de temps en temps, l'air farouche. M. de Bellegarde, avec qui il a causé long-temps, ce matin, en est enchanté, et l'a engagé à nous venir voir souvent. J'en suis bien aise; je me promets de profiter beaucoup de sa conversation.'—I. pp. 175, 176.

Their friendship so formed, proceeded to a great degree of intimacy. Madame d'Epinay admired his genius, and provided him with hats and coats; and, at last, was so far deluded by his declamations about the country, as to fit him up a little hermit cottage, where there were a great many birds, and a great many plants and flowers—and where Rousseau

was, as might have been expected, supremely miserable. His friends from Paris did not come to see him. The postman, the butcher, and the baker, hate romantic scenery—duchesses and marchionesses were no longer found to scramble for him. Among the real inhabitants of the country, the reputation of reading and thinking is fatal to character; and Jean Jacques cursed his own successful eloquence which had sent him from the suppers and flattery of Paris to smell to daffodils, watch sparrows, or project idle saliva into the passing stream. Very few men who have gratified, and are gratifying their vanity in a great metropolis, are qualified to quit it. Few have the plain sense to perceive, that they must soon inevitably be forgotten, —or the fortitude to bear it when they are. They represent to themselves imaginary scenes of deploring friends and dispirited companies—but the ocean might as well regret the drops exhaled by the sun-beams. Life goes on; and whether the absent have retired into a cottage or a grave, is much the same thing.—In London, as in law, *de non apparentibus, et non existentibus eadem est ratio.*

This is the account Madame d'Epinay gives of Rousseau soon after he had retired into the hermitage.

'J'ai été il y a deux jours à la Chevrette, pour terminer quelques affaires avant de m'y établir avec mes enfans. J'avois fait prévenir Rousseau de mon voyage: il est venu me voir. Je crois qu'il a besoin de ma présence, et que la solitude a déjà agité sa bile. Il se plaint de tout le monde. Diderot doit toujours aller, et ne va jamais le voir; M. Grimm le néglige; le Baron d'Holbach l'oublie; Gauffecourt et moi seulement avons encore des égards pour lui, dit-il; j'ai voulu les justifier; cela n'a pas réussi. J'espère qu'il sera beaucoup plus à la Chevrette qu'à l'Hermitage. Je suis persuadée qu'il n'y a que façon de prendre cet homme pour le rendre heureux; c'est de feindre de ne pas prendre garde à lui, et s'en occuper sans cesse; c'est pour cela que je n'insistai point pour le retenir, lorsqu'il m'eut dit qu'il vouloit s'en retourner à l'Hermitage, quoiqu'il fût tard et malgré le mauvais temps.'—II. pp. 253, 254.

Jean Jacques Rousseau seems, as the reward of genius and fine writing, to have claimed an exemption from all moral duties. He borrowed and begged, and never paid;—put his children in a poor house—betrayed his friends—insulted his benefactors—and was guilty of every species of meanness and mischief. His vanity was so great, that it was almost impossible to keep pace with it by any activity of attention; and his suspicion of all mankind amounted nearly, if not altogether, to insanity. The following anecdote, however, is totally clear of

any symptom of derangement, and carries only the most rooted and disgusting selfishness.

'Rousseau vous a donc dit qu'il n'avoit pas porté son ouvrage à Paris? Il en a menti, car il n'a fait son voyage que pour cela. J'ai reçu hier une lettre de Diderot, qui peint votre hermite comme si je le voyois. Il a fait ces deux lieues à pied, est venu s'établir chez Diderot sans l'avoir prévenu, le tout pour faire avec lui la revision de son ouvrage. Au point où ils en étoient ensemble, vous conviendrez que cela est assez étrange. Je vois, par certains mots échappés à mon ami dans sa lettre, qu'il y a quelque sujet de discussion entre eux; mais comme il ne s'explique point, je n'y comprends rien. Rousseau l'a tenu impitoyablement à l'ouvrage depuis le Samedi dix heures du matin jusqu'au Lundi onze heures du soir, sans lui donner à peine le temps de boire ni manger. La revision finie, Diderot cause avec lui d'un plan qu'il a dans la tête, et prie Rousseau de l'aider à arranger un incident qui n'est pas encore trouvé à sa fantaisie. Cela est trop difficile, répond froidement l'hermite, il est tard, je ne suis point accoutumé à veiller. Bon soir, je pars demain à six heures du matin, il est temps de dormir. Il se lève, va se coucher, et laisse Diderot pétrifié de son procédé. Voilà cet homme que vous croyez si pénétré de vos leçons. Ajoutez à cette reflexion un propos singulier de la femme de Diderot, dont je vous prie de faire votre profit. Cette femme n'est qu'une bonne femme, mais elle a la tact juste. Voyant son mari désolé le jour du départ de Rousseau, elle lui en demande la raison; il la lui dit: C'est le manque de délicatesse de cet homme, ajoute-t-il, qui m'afflige; il me fait travailler comme un manœuvre, je ne m'en serois, je crois, pas aperçu, s'il ne m'avoit refusé aussi sèchement de s'occuper pourmoi un quart-d'heure... Vous êtes étonné de cela, lui répond sa femme, vous ne le connoissez donc pas? Il est dévors d'envie; il enrage quand il paroit quelque chose de beau qui n'est pas de lui. On lui verra faire un jour quelques grands forfaits plutôt que de se laisser ignorer. Tenez, je ne jurerois pas qu'il ne se rangeât du parti des Jésuites, et qu'il n'enterprît leur apologie.'—III. pp. 60, 61.

The horror which Diderot ultimately conceived for him, is strongly expressed in the following letter to Grimm,—written after an interview which compelled him, with many pangs, to renounce all intercourse with a man who had, for years, been the object of his tenderest and most partial feelings.

'Cet homme est un forcené. Je l'ai vu, je lui ai reproché, avec toute la force que donne l'honnêteté et une sorte d'intérêt qui reste au fond du cœur d'un ami qui lui est dévoué depuis long-temps, l'énormité de sa conduite; les pleurs versés aux pieds de madame d'Epinay, dans le moment même où il la chargeoit près de moi des accusations les plus graves; cette odieuse apologie qu'il vous a envoyée, et où il n'y pas une seule des raisons qu'il avoit à dire; cette lettre projectée pour Saint-Lambert, qui devoit le tranquilliser sur des sentimens qu'il se reprochoit, et où, loin d'avouer une passion

née dans son cœur malgré lui, il s'excuse d'avoir alarmé Madame d'Houdetot sur la sienne. Que sais-je encore? Je ne suis point content de ses résponses; je n'ai pas eu le courage de le lui témoigner j'ai mieux aimé lui laisser la misérable consolation de croire qu'il m'a trompé. Qu'il vive! Il a mis dans sa défense un emportement froid qui m'a affligé. J'ai peur qu'il ne soit endurci.

'Adieu, mon ami; soyons et continuons d'être honnêtes gens: l'état de ceux qui ont cessé d l'être me fait peur. Adieu, mon ami; je vous embrasse bien tendrement. . . . . Je ne jette dans vos bras comme un homme effrayé; je tâche en vain de faire de la poésie, mais cet homme me revient tout à travers mon travail; il me trouble, et je suis comme si j'avois à côté de moi un damné; il est damné, cela est sûr. Adieu mon ami. . . . . Grimm, violà l'effet que je ferois sur vous, si je devenois jamais un méchant: en vérité, j'aimerois mieux être mort. Il n'y a peut-être pas le sens commun dans tout ce que je vous écris, mais je vous avoue que je n'ai jamois éprouvé un trouble d'ame si terrible que celu que j'ai.

'Oh! mon ami, quel spectacle que celui d'un homme méchant et bourrelé! Brûlez, déchirez ce papier, qu'il ne retombe plus sous vos yeux; que je ne revoie plus cet homme là, il me feroit croire aux diables et à l'enfer. Si je suis jamais forcé de retourner chez lui, je suis sûr que je frémirai tout le long du chemin: j'avois la fièvre en revenant. Je suis fâché de ne lui avoir pas laissé voir l'horreur qu'il m'inspiroit, et je ne me réconcilie avec moi qu'en pensant, que vous, avec toute votre fermeté, vous ne l'auriez pas pu à ma place; je ne sais pas pas s'il ne m'auroit pas tué. On entendoit ses cris jusqu'au bout du jardin; et je le voyois! Adieu, mon ami, j'irai demain vous voir; j'irai chercher un homme de bien, auprès duquel je m'asséye, qui me rassure, et qui chasse de mon ame je ne sais quoi d'infernal qui la tourmente et qui s'y est attaché. Les poètes ont bien fait de mettre un intervalle immense entre le ciel et les enfers. En vérité, la main me tremble.'—III. pp. 148, 149.

Madame d'Epinay lived, as we before observed, with many persons of great celebrity. We could not help smiling, among many others, at this anecdote of our countryman, David Hume. At the beginning of his splendid career of fame and fashion at Paris, the historian was persuaded to appear in the character of a sultan; and was placed on a sofa between two of the most beautiful women of Paris, who acted for that evening the part of inexorables, whose favour he was supposed to be soliciting. The absurdity of this scene can easily be conceived.

'Le célèbre David Hume, grand et gros historiographe d'Angleterre, connu et estimé par ses écrits, n'a pas autant de talens pour ce genre d'amusemens auquel toutes nos jolies femmes l'avoient décidé propre. Il fit son début chez Madame de T* * *; on lui avoit destiné le rôle d'un sultan assis entre deux esclaves, employant toute son

éloquence pour s'en faire aimer; les trouvant inexorables, il devoit chercher le sujet de leurs peines et de leur résistance: on le place sur un sopha entre les deux plus jolies femmes de Paris, il les regarde attentivement, il se frappe le ventre et les genoux à plusieurs reprises, et ne trouve jamais autre chose à leur dire que: *Eh bien! mes demoiselles . . . . Eh bien! vous voilà donc . . . . Eh bien! vous violà . . . vous violà ici?* . . . Cette phrase dura un quart-d'heure, sans qu'il pût en sortir. Une d'elles se leva d'impatience: Ah! dit-elle, je m'en étois bien doutée, cet homme n'est bon qu'à manger du veau! Depuis ce temps il est relégué au rôle de spectateur, et n'en est pas moins fêté et cajolé. C'est en vérité une chose plaisante que le rôle qu'il joue ici; malheureusement pour lui, ou plutôt pour la dignité philosophique, car, pour lui, il paroît s'accommoder fort de ce train de vie; il n'y avoit aucune manie dominante dans ce pays lorsqu'il y est arrivé; on l'a regardé comme une trouvaille dans cette circonstance, et l'effervescence de nos jeunes têtes s'est tournée de son côté. Toutes les jolies femmes s'en sont emparées; il est de tous les soupers fins, et il n'est point de bonne fête sans lui: en un mot, il est pour nos agréables ce que les Genevois sont pour moi.'—III. pp. 284, 285.

There is always some man, of whom the human viscera stand in greater dread than of any other person, who is supposed, for the time being, to be the only person who can dart his pill into their inmost recesses; and bind them over, in medical recognizance, to assimilate and digest. In the Trojan war, Podalirius and Machaon were what Dr. Baillie and Sir Henry Halford now are—they had the fashionable practice of the Greek camp; and, in all probability, received many a guinea from Agamemnon dear to Jove, and Nestor the tamer of horses. In the time of Madame d'Epinay, Dr. Tronchin, of Geneva, was in vogue, and no lady of fashion could recover without writing to him, or seeing him in person. To the Esculapius of this very small and irritable republic, Madame d'Epinay repaired; and, after a struggle between life and death, and Dr. Tronchin, recovered her health. During her residence at Geneva, she became acquainted with Voltaire, of whom she has left the following admirable and original account—the truth, talent, and simplicity of which, are not a little enhanced by the tone of adulation or abuse which has been so generally employed in speaking of this celebrated person.

'Eh bien! mon ami, je n'aimerois pas à vivre de suite avec lui; il n'a nul principe arrêté, il compte trop sur sa mémoire, et il en abuse souvent; je trouve qu'elle fait tort quelquefois à sa conversation; il redit plus qu'il ne dit, et ne laisse jamais rien à faire aux autres. Il

ne sait point causer, et il humilie l'amour-propre; il dit le pour et le contre, tant qu'on veut, toujours avec de nouvelles graces à la vérité, et néanmoins il a toujours l'air de se moquer de tout, jusqu'à lui-même. Il n'a nulle philosophie dans la tête; il est tout hérissé de petits préjugés d'enfans; on les lui passeroit peutêtre en faveur de ses graces, du brillant de son esprit et de son originalité, s'il ne s'affichoit pas pour les secouer tous. Il a des inconséquences plaisantes, et il est au milieu de tout cela très-amusant à voir. Mais je n'aime point les gens qui ne font que m'amuser. Pour madame sa nièce, elle est tout-à-fait comique.

'Il paroît ici depuis quelques jours un livre qui a vivement échauffé les têtes, et qui cause des discussions fort intéressantes entre différentes personnes de ce pays, parce que l'on prétend que la constitution de leur gouvernement y est intéressée: Voltaire s'y trouve mêlé pour des propos assez vifs qu'il a tenu à ce sujet contre les prêtres. La grosse nièce trouve fort mauvais que tous les magistrats n'ayent pas pris fait et cause pour son oncle. Elle jette tour à tour ses grosses mains et ses petits bras par dessus sa tête, maudissant avec des cris inhumains les lois, les républiques, et surtout ces polissons de républicains qui vont à pied, qui sont obligés de souffrir les criailleries de leurs prêtres, et qui se croient libres. Cela est tout-à-fait bon à entendre et à voir.'—III. pp. 196, 197.

Madame D'Epinay was certainly a woman of very considerable talent. Rousseau accuses her of writing bad plays and romances. This may be; but her epistolary style is excellent—her remarks on passing events lively, acute, and solid—and her delineation of character admirable. As a proof of this, we shall give her portrait of the Marquis de Croismare, one of the friends of Diderot and the Baron d'Holbach.

'Je lui crois bien soixante ans; il ne les paroît pourtant pas. Il est d'une taille médiocre, sa figure a dû être très-agréable: elle se distingue encore par un air de noblesse et d'aisance, qui répand de la grace sur tout sa personne. Sa physionomie a de la finesse. Ses gestes, ses attitudes ne sont jamais recherchés; mais ils sont si bien d'accord avec la tournure de son esprit, qu'ils semblent ajouter à son originalité. Il parle des choses les plus sérieuses et les plus importantes d'un ton si gai, qu'on est souvent tenté de ne rien croire de ce qu'il dit. On n'a presque jamais rien a citer de ce qu'on lui entend dire; mais lorsqu'il parle, on ne veut rien perdre de ce qu'il dit; s'il se tait, on désire qu'l parle encore. Sa prodigieuse vivacité, et une singulière aptitude à toutes sortes de talens et de connoissances, l'ont porté à tout voir et à tout connoître; au moyen de quoi vous comprenez qu'il est fort instruit. Il a bien lu, bien vu, et n'a retenu que ce qui valoit la peine de l'être. Son esprit annonce d'abord plus d'agrément que de solidité, mais je crois que quiconque le jugeroit frivole lui feroit tort. Je le soupçonne de renfermer dans son cabinet les épines des roses qu'il distribue dans la société: assez constamment

gai dans le monde, seul je le crois mélancolique. On dit qu'il a l'ame aussi tendre qu'honnête; qu'il sent vivement et qu'il se livre avec impetuosité à ce qui trouve le chemin de son cœur. Tout le monde ne lui plaît pas; il faut pour cela de l'originalité, ou des vertus distinguées, ou de certains vices qu'il appelle passions; néanmoins dans le courant de la vie, il s'accommode de tout. Beaucoup de curiosité et de la facilité dans le caractère (ce qui va jusqu'à la foiblesse) l'entraînent souvent à négliger ses meilleurs amis et à les perdre de vue, pour se livrer à des goûts factices et passagers: il en rit avec eux; mais on voit si clairement qu'il en rougit avec lui-même, qu'on ne peut lui savoir mauvais gré de ses disparates.'—III. pp. 324—326.

The portrait of Grimm, the French Boswell, vol. iii. p. 97, is equally good, if not superior; but we have already extracted enough to show the nature of the work, and the talents of the author. It is a lively, entertaining book,—relating in an agreeable manner the opinions and habits of many remarkable men—mingled with some very scandalous and improper passages, which degrade the whole work. But if all the decencies and delicacies of life were in one scale, and five francs in the other, what French bookseller would feel a single moment of doubt in making his selection?

POOR-LAWS. (Edinburgh Review, 1820.)

1. *Safe Method for rendering Income arising from Personal Property available to the Poor-Laws.* Longman & Co. 1819.
2. *Summary Review of the Report and Evidence relative to the Poor-Laws.* By S. W. Nicol. York.
3. *Essay on the Practicability of modifying the Poor-Laws.* Sherwood. 1819.
4. *Considerations on the Poor-Laws.* By John Davison, A.M. Oxford.

Our readers, we fear, will require some apology for being asked to look at anything upon the poor-laws. No subject, we admit, can be more disagreeable, or more trite. But, unfortunately, it is the most important of all the important subjects which the distressed state of the country is now crowding upon our notice.

A pamphlet on the poor-laws generally contains some little piece of favourite nonsense, by which we are gravely told this enormous evil may be perfectly cured. The first gentleman recommends little gardens; the second cows; the third a village shop; the fourth a spade; the fifth Dr. Bell, and so forth. Every man rushes to the press with his small morsel of imbecility; and is not easy till he sees his impertinence stitched in blue covers. In this list of absurdities, we must not forget the project of supporting the poor from national funds, or, in other words, of immediately doubling the expenditure, and introducing every possible abuse into the administration of it.

Then there are worthy men, who call upon gentlemen of fortune and education to become overseers—meaning, we suppose, that the present overseers are to perform the higher duties of men of fortune. Then merit is set up as the test of relief; and their worships are to enter into a long examination of the life and character of each applicant, assisted, as they doubtless would be, by candid overseers, and neighbours divested of every feeling of malice and partiality. The children are next

to be taken from their parents, and lodged in immense pedagogueries of several acres each, where they are to be carefully secluded from those fathers and mothers they are commanded to obey and honour, and are to be brought up in virtue by the churchwardens.—And this is gravely intended as a corrective of the poor-laws; as if (to pass over the many other objections which might be made to it,) it would not set mankind populating faster than carpenters and bricklayers could cover in their children, or separate twigs to be bound into rods for their flagellation. An extension of the poor-laws to personal property is also talked of. We should be very glad to see any species of property exempted from these laws, but have no wish that any which is now exempted should be subjected to their influence. The case would infallibly be like that of the income-tax,—the more easily the tax was raised, the more profligate would be the expenditure. It is proposed also that alehouses should be diminished, and that the children of the poor should be catechized publicly in the church,—both very respectable and proper suggestions but of themselves hardly strong enough for the evil. We have every wish that the poor should accustom themselves to habits of sobriety; but we cannot help reflecting, sometimes, that an alehouse is the only place where a poor tired creature, haunted with every species of wretchedness, can purchase three or four times a year three pennyworth of ale—a liquor upon which wine-drinking moralists are always extremely severe. We must not forget, among other nostrums, the eulogy of small farms—in other words, of small capital, and profound ignorance in the arts of agriculture;—and the evil is also thought to be curable by periodical contributions from men who have nothing, and can earn nothing without charity. To one of these plans, and perhaps the most plausible, Mr. Nicol has stated, in the following passage, objections that are applicable to almost all the rest.

'The district school would no doubt be well superintended and well regulated; magistrates and country gentlemen would be its visitors. The more excellent the establishment, the greater the mischief; because the greater the expense. We may talk what we will of economy, but where the care of the poor is taken exclusively into the hands of the rich, comparative extravagance is the necessary consequence: to say that the gentleman, or even the overseer, would never permit the poor to live at the district school, as they live at home, is saying far too little. English humanity will never see the poor in any thing like want, when that want is palpably and visibly brought before it: first,

it will give necessaries, next comforts; until its fostering care rather pampers, than merely relieves. The humanity itself is highly laudable; but if practised on an extensive scale, its consequences must entail an almost unlimited expenditure.

'Mr. Locke computes that the labour of a child from 3 to 14, being set against its nourishment and teaching, the result would be exoneration of the parish from expense. Nothing could prove more decisively the incompetency of the board of trade to advise on this question. Of the productive labour of the workhouse, I shall have to speak hereafter; I will only observe in this place, that after the greatest care and attention bestowed on the subject, after expensive looms purchased, &c., the 50 boys of the blue coat school earned in the year 1816, 59*l.* 10*s.* 3*d.*; the 40 girls earned, in the same time, 40*l.* 7*s.* 9*d.* The ages of these children are from 8 to 16. They earn about one pound in the year, and cost about twenty.

'The greater the call for labour in public institutions, be they prisons, workhouses, or schools, the more difficult to be procured that labour must be. There will thence be both much less of it for the comparative numbers, and it will afford a much less price; to get any labour at all, one school must underbid another.

'It has just been observed, that "the child of a poor cottager, half clothed, half fed, with the enjoyment of home and liberty, is not only happier but better than the little automaton of a parish workhouse:" and this I believe is accurately true. I scarcely know a more cheering sight, though certainly many more elegant ones, than the youthful gambols of a village green. They call to mind the description given by Paley of the shoals of the fry of fish: "They are so happy that they know not what to do with themselves; their attitude, their vivacity, their leaps out of the water, their frolics in it, all conduce to show their excess of spirits, and are simply the effects of that excess."

'Though politeness may be banished from the cottage, and though the anxious mother may sometimes chide a little too sharply, yet here both maternal endearments and social affection exist in perhaps their greatest vigour: the attachments of lower life, where independent of attachment there is so little to enjoy, far outstrip the divided if not exhausted sensibility of the rich and great; and in depriving the poor of these attachments, we may be said to rob them of their little all.

'But it is not to happiness only I here refer: it is to morals. I listen with great reserve to that system of moral instruction, which has not social affection for its basis, or the feelings of the heart for its ally. It is not to be concealed, that every thing may be taught, yet nothing learned, that systems planned with care, and executed with attention, may evaporate into unmeaning forms, where the imagination is not roused, or the sensibility impressed.

'Let us suppose the children of the "district school," nurtured with that superabundant care which such institutions, when supposed to be well conducted, are wont to exhibit; they rise with the dawn; after attending to the calls of cleanliness, prayers follow; then a lesson; then breakfast; then work, till noon liberates them, for perhaps an hour, from the walls of their prison to the walls of their prison court. Dinner

follows; and then, in course, work, lessons, supper, prayers; at length, after a day dreary and dull, the counterpart of every day which has preceded, and of all that are to follow, the children are dismissed to bed.—This system may construct a machine, but it will not form a man. Of what does it consist? of prayers parroted without one sentiment in accord with the words uttered: of moral lectures which the understanding does not comprehend, or the heart feel; of endless bodily constraint, intolerable to youthful vivacity, and injurious to the perfection of the human frame.—The cottage day may not present so imposing a scene; no decent uniform; no well trimmed locks; no glossy skin; no united response of hundreds of conjoined voices; no lengthened procession, misnamed exercise; but if it has less to strike the eye, it has far more to engage the heart. A trifle in the way of cleanliness must suffice; the prayer is not forgot; it is perhaps imperfectly repeated, and confusedly understood; but it is not muttered as a vain sound; it is an earthly parent that tells of a heavenly one; duty, love, obedience, are not words without meaning, when repeated by a mother to her child: to God, the great unknown Being that made all things, all thanks, all praise, all adoration is due. The young religionist may be in some measure bewildered by all this; his notions may be obscure, but his feelings will be roused, and the foundation at least of true piety will be laid.

'Of moral instruction, the child may be taught less at home than at school, but he will be taught better; that is, whatever he is taught he will feel; he will not have abstract propositions of duty coldly presented to his mind; but precept and practice will be conjoined; what he is told it is right to do will be instantly done. Sometimes the operative principle on the child's mind will be love, sometimes fear, sometimes habitual sense of obedience; it is always something that will impress, always something that will be remembered.

There are two points which we consider as now admitted by all men of sense,—1*st*, That the poor-laws must be abolished; 2*dly*, That they must be *very gradually* abolished.* We hardly think it worth while to throw away pen and ink upon any one who is still inclined to dispute either of these propositions.

With respect to the gradual abolition, it must be observed, that the present redundant population of the country has been entirely produced by the poor-laws: and nothing could be so

* I am not quite so wrong in this as I seem to be, nor after all our experience am I satisfed that there has not been a good deal of rashness and precipitation in the conduct of this admirable measure. You have not been able to carry the law into manufacturing countries. Parliament will compel you to soften some of the more severe clauses. It has been the nucleus of general insurrection and chartism. The Duke of Wellington wisely recommended that the experiment should be first tried in a few counties round the metropolis.

grossly unjust as to encourage people to such a vicious multiplication, and then, when you happen to discover your folly, immediately to starve them into annihilation. You have been calling upon your population for two hundred years to beget more children—furnished them with clothes, food, and houses —taught them to lay up nothing for matrimony, nothing for children, nothing for age—but to depend upon justices of the peace for every human want. The folly is now detected; but the people, who are the fruit of it, remain. It was madness to call them in this manner into existence; but it would be the height of cold-blooded cruelty to get rid of them by any other than the most gentle and gradual means; and not only would it be cruel, but extremely dangerous, to make the attempt. Insurrections of the most sanguinary and ferocious nature would be the immediate consequence of any very sudden change in the system of the poor-laws; not partial, like those which proceeded from an impeded or decaying state of manufactures, but as universal as the poor-laws themselves, and as ferocious as insurrections always are which are led on by hunger and despair.

These observations may serve as an answer to those angry and impatient gentlemen, who are always crying out, What has the committee of the House of Commons done?—What have they to show for their labours?—Are the rates lessened? —Are the evils removed? The committee of the House of Commons would have shown themselves to be a set of the most contemptible charlatans, if they had proceeded with any such indecent and perilous haste, or paid the slightest regard to the ignorant folly which required it at their hands. They have very properly begun, by collecting all possible information upon the subject; by consulting speculative and practical men; by leaving time for the press to contribute whatever it could of thought or knowledge to the subject; and by introducing measures, the effects of which will be, and are intended to be, gradual. The lords seemed at first to have been surprised that the poor-laws were not abolished before the end of the first session of Parliament; and accordingly set up a little rival committee of their own, which did little or nothing, and will not, we believe, be renewed. We are so much less sanguine than those noble legislators, that we shall think the improvement immense, and a subject of very general congratulation, if the poor-rates are perceptibly dimi-

nished, and if the system of pauperism is clearly going down in twenty or thirty years hence.

We think, upon the whole, that government has been fortunate in the selection of the gentleman who is placed at the head of the committee for the revision of the poor-laws; or rather, we should say (for he is a gentleman of very independent fortune), who has consented that he should be placed there. Mr. Sturges Bourne is undoubtedly a man of business, and of very good sense: he has made some mistakes; but, upon the whole, sees the subject as a philosopher and a statesman ought to do. Above all, we are pleased with his good nature and good sense in adhering to his undertaking, after the Parliament has flung out two or three of his favourite bills. Many men would have surrendered so unthankful and laborious an undertaking in disgust; but Mr. Bourne knows better what appertains to his honour and character, and, above all, what he owes to his country. It is a great subject; and such as will secure to him the gratitude and favour of posterity, if he brings it to a successful issue.

We have stated our opinion, that all remedies, without gradual abolition, are of little importance. With a foundation laid for such gradual abolition, every auxiliary improvement of the poor-laws (while they do remain) is worthy the attention of Parliament: and, in suggesting a few alterations as fit to be immediately adopted, we wish it to be understood, that we have in view the gradual destruction of the system, as well as its amendment while it continues to operate.

It seems to us, then, that one of the first and greatest improvements of this unhappy system would be a complete revision of the law of settlement. Since Mr. East's act for preventing the removal of the poor till they are actually chargeable, any man may live where he pleases, till he becomes a beggar, and asks alms of the place where he resides. To gain a settlement, then, is nothing more than to gain a right of begging: it is not, as it used to be before Mr. East's act, a power of residing where, in the judgment of the resident, his industry and exertion will be best rewarded; but a power of taxing the industry and exertions of other persons in the place where his settlement falls. This privilege produces all the evil complained of in the poor-laws; and instead, therefore, of being conferred with the liberality and profusion which it is at present, it should be made of very difficult attainment, and liable

to the fewest possible changes. The constant policy of our courts of justice has been, to make settlements easily obtained. Since the period we have before alluded to, this has certainly been a very mistaken policy. It would be a far wiser course to abolish all other means of settlement than those of birth, parentage, and marriage—not for the limited reason stated in the committee, that it would diminish the law expenses (though that, too, is of importance,) but because it would invest fewer residents with the fatal privilege of turning beggars, exempt a greater number of labourers from the moral corruption of the poor-laws, and stimulate them to exertion and economy, by the fear of removal if they are extravagant and idle. Of ten men who leave the place of their birth, four, probably, get a settlement by yearly hiring, and four others by renting a small tenement; while two or three may return to the place of their nativity, and settle there. Now, under the present system, here are eight men settled where they have a right to beg without being removed. The probability is, that they will all beg; and that their virtue will give way to the incessant temptation of the poor-laws: but if these men had felt from the very beginning, that removal from the place where they wished most to live would be the sure consequence of their idleness and extravagance, the probability is, that they would have escaped the contagion of pauperism, and been much more useful members of society than they now are. The best labourers in a village are commonly those who are living where they are legally settled, and have therefore no right to ask charity —for the plain reason, that they have nothing to depend upon but their own exertions: in short, for them the poor-laws hardly exist; and they are such as the great mass of English peasantry would be, if we had escaped the curse of these laws altogether.

It is incorrect to say, that no labourer would settle out of the place of his birth, if the means of acquiring a settlement were so limited. Many men begin the world with strong hope and much confidence in their own fortune, and without any intention of subsisting by charity; but they see others subsisting in greater ease, without their toil—and their spirit gradually sinks to the meanness of mendicity.

An affecting picture is sometimes drawn of a man falling into want in the decline of life, and compelled to remove from the place where he has spent the greatest part of his days. These things are certainly painful enough to him who has

the misfortune to witness them. But they must be taken upon a large scale; and the whole good and evil which they produce diligently weighed and considered. The question then will be, whether any thing can be more really humane, than to restrain a system which relaxes the sinews of industry, and places the dependence of laborious men upon anything but themselves. We must not think only of the wretched sufferer who is removed, and, at the sight of his misfortunes, call out for fresh facilities to beg. We must remember the industry, the vigour, and the care which the dread of removal has excited, and the number of persons who owe their happiness and their wealth to that salutary feeling. The very person who, in the decline of life, is removed from the spot where he has spent so great a part of his time, would, perhaps, have been a pauper half a century before, if he had been afflicted with the right of asking alms in the place where he lived.

It has been objected, that this plan of abolishing all settlements but those of birth, would send a man, the labour of whose youth had benefited some other parish, to pass the useless part of his life in a place for which he existed only as a burden. Supposing that this were the case, it would be quite sufficient to answer, that any given parish would probably send away as many useless old men as it received; and, after all, little inequalities must be borne for the general good. But, in truth, it is rather ridiculous to talk of a parish not having benefited by the labour of the man who is returned upon their hands in his old age. If such parish resembles most of those in England, the absence of a man for thirty or forty years has been a great good instead of an evil; they have had many more labourers than they could employ; and the very man whom they are complaining of supporting for his few last years, would, in all probability, have been a beggar forty years before, if he had remained among them; or, by pushing him out of work, would have made some other man a beggar. Are the benefits derived from prosperous manufactures limited to the parishes which contain them? The industry of Halifax, Huddersfield, or Leeds, is felt across the kingdom as far as the Eastern Sea. The prices of meat and corn at the markets of York and Malton are instantly affected by any increase of demand and rise of wages in the manufacturing districts to the west. They have benefited these distant places, and found labour for their superfluous hands by

the prosperity of their manufactures. Where, then, would be the injustice, if the manufacturers, in the time of stagnation and poverty, were returned to their birth settlements? But as the law now stands, *population tumors*, of the most dangerous nature, may spring up in any parish:—a manufacturer, concealing his intention, may settle there, take 200 or 300 apprentices, fail, and half ruin the parish which has been the scene of his operations. For these reasons, we strongly recommended to Mr. Bourne to narrow as much as possible, in all his future bills, the means of acquiring settlements,* and to reduce them ultimately to parentage, birth, and marriage—convinced that, by so doing, he will, in furtherance of the great object of abolishing the poor-laws, be only *limiting the right of begging*, and preventing the resident and almsman from being (as they now commonly are) one and the same person. But, before we dismiss this part of the subject, we must say a few words upon the methods by which settlements are now gained.

In the settlement by hiring it is held, that a man has a claim upon the parish for support where he has laboured for a year; and yet another, who has laboured there for twenty years by short hirings, gains no settlement at all. When a man was not allowed to live where he was not settled, it was wise to lay hold of any plan for extending settlements. But the whole question is now completely changed; and the only point which remains is, to find out what mode of conferring settlements produces the least possible mischief. We are convinced it is by throwing every possible difficulty in the way of acquiring them. If a settlement hereafter should not be obtained in that parish in which labourers have worked for many years, it will be because it contributes materially to their happiness that they should not gain a settlement there; and this is a full answer to the apparent injustice.

Then, upon what plea of common sense should a man gain a power of taxing a parish to keep him, because he has rented a tenement of ten pounds a year there? or, because he has served the office of clerk, or sexton, or hog-ringer, or bought an estate of thirty pounds value? However good these various pleas might be for conferring settlements, if it was desirable to increase the facility of obtaining them, they are totally

* This has been done.

inefficacious if it can be shown that the means of gaining new settlements should be confined to the limits of the strictest necessity.

These observations (if they have the honour of attracting his attention) will show Mr. Bourne our opinion of his bill for giving the privilege of settlement only to a certain length of residence. In the *first* place, such a bill would be the cause of endless vexation to the poor, from the certainty of their being turned out of their cottages, before they pushed their legal taproot into the parish; and, *secondly*, it would rapidly extend all the evils of the poor laws, by identifying, much more than they are at present identified, the resident and the settled man—the very opposite of the policy which ought to be pursued.

Let us suppose, then, that we have got rid of all the means of gaining a settlement, or right to become a beggar, except by birth, parentage, and marriage; for the wife, of course, must fall into the settlement of the husband; and the children, till emancipated, must be removed, if their parents are removed. This point gained, the task of regulating the law expenses of the poor-laws would be nearly accomplished: for the most fertile causes of dispute would be removed. Every first settlement is an inexhaustible source of litigation and expense to the miserable rustics. Upon the simple fact, for example, of a farmer hiring a ploughman for a year, arise the following afflicting questions:—Was it an expressed contract? Was it an implied contract? Was it an implied hiring of the ploughman, rebutted by circumstances? Was the ploughman's contract for a year's prospective service? Was it a customary hiring of the ploughman? Was it a retrospective hiring of the ploughman? Was it a conditional hiring? Was it a general hiring? Was it a special, or a special yearly hiring, or a special hiring with wages reserved weekly? Did the farmer make it a special conditional hiring with warning, or an exceptive hiring? Was the service of the ploughman actual or constructive? Was there any dispensation expressed or implied?—or was there a dissolution implied?—by new agreement?—or mutual consent?—or by justices?—or by any other of the ten thousand means which the ingenuity of lawyers has created? Can any one be surprised, after this, to learn, that the amount of appeals for removals, in the four quarter sessions ending Mid-

summer, 1817, were *four thousand seven hundred?** Can any man doubt that it is necessary to reduce the hydra to as few heads as possible? or can any other objection be stated to such reduction, than the number of attorneys and provincial counsel, whom it will bring into the poor-house? Mr. Nicol says, that the greater number of modes of settlement do not increase litigation. He may just as well say, that the number of the streets in the Seven Dials does not increase the difficulty of finding the way. The modes of settlement we leave, are by far the simplest, and the evidence is assisted by registers.

Under the head of law expenses, we are convinced a great deal may be done, by making some slight alteration in the law of removals. At present, removals are made without any warning to the parties to whom the pauper is removed; and the first intimation which the defendant parish receives of the projected increase of their population is, by the arrival of the father, mother, and eight or nine children at the overseer's door—where they are tumbled out, with the justice's order about their necks, and left as a spectacle to the assembled and indignant parishioners. No sooner have the poor wretches become a little familiarized to their new parish, than the order is appealed against, and they are recarted with the same precipitate indecency—*Quo fata trahunt, retrahuntque.*

No removal should ever take place without due notice to the parish to which the pauper is to be removed, nor till the time in which it may be appealed against is passed by. Notice to be according to the distance—either by letter, or personally; and the decision should be made by the justices at their petty sessions, with as much care and attention as if there were no appeal from their decision. An absurd notion prevails among magistrates, that they need not take much trouble in the investigation of removals, because their errors may be corrected by a superior court; whereas, it is an object of great importance, by a fair and diligent investigation in the nearest and cheapest court, to convince the country people which party is right and which is wrong: and in this manner to prevent them from becoming the prey of law vermin. We are convinced that this subject of the removal of poor is well worthy a short and separate bill. Mr. Bourne thinks it would be very difficult to draw up such a bill. We are quite

* Commons' Report, 1817.

satisfied we could draw up one in ten minutes that would completely answer the end proposed, and cure the evil complained of.

We proceed to a number of small details, which are well worth the attention of the legislature. Overseers' accounts should be given in quarterly, and passed by the justices, as they now are, annually. The office of overseer should be triennial. The accounts which have nothing to do with the poor, such as the constable's account, should be kept and passed separately from them; and the vestry should have the power of ordering a certain portion of the superfluous poor upon the roads. But we beseech all speculators in poor-laws to remember, that the machinery they must work with is of a very coarse description. An overseer must always be a limited, uneducated person, but little interested in what he is about, and with much business of his own on his hands. The extensive interference of gentlemen with those matters is quite visionary and impossible. If gentlemen were tide-waiters, the custom-house would be better served; if gentlemen would become petty constables, the police would be improved; if bridges were made of gold, instead of iron, they would not rust. But there are not enough of these articles for such purposes.

A great part of the evils of the poor-laws, has been occasioned by the large powers intrusted to individual justices. Every body is full of humanity and good-nature when he can relieve misfortune by putting his hand—in his neighbour's pocket. Who can bear to see a fellow-creature suffering pain and poverty, when he can order other fellow-creatures to relieve him? Is it in human nature, that A should see B in tears and misery, and not order C to assist him? Such a power must, of course, be liable to every degree of abuse; and the sooner the power of ordering relief can be taken out of the hands of magistrates, the sooner shall we begin to experience some mitigation of the evils of the poor-laws. The special-vestry bill is good for this purpose, as far as it goes; but it goes a very little way; and we much doubt if it will operate as any sort of abridgment to the power of magistrates granting relief. A single magistrate must not act under this bill but in cases of special emergency. But every case of distress is a case of special emergency: and the double magistrates, holding their petty sessions at some little alehouse, and over-

whelmed with all the monthly business of the hundred, cannot possibly give to the pleadings of the overseer and pauper half the attention they would be able to afford them at their own houses.

The common people have been so much accustomed to resort to magistrates for relief, that it is certainly a delicate business to wean them from this bad habit; but it is essential to the great objects which the poor-committee have in view, that the power of magistrates of ordering relief should be gradually taken away. When this is once done, half the difficulties of the abolition are accomplished. We will suggest a few hints as to the means by which this desirable end may be promoted.

A poor man now comes to a magistrate any day in the week, and any hour in any day, to complain of the overseers, or of the select committee. Suppose he were to be made to wait a little, and to feel for a short time the bitterness of that poverty which, by idleness, extravagance, and hasty marriage, he has probably brought upon himself. To effect this object, we would prohibit all orders for relief, by justices, between the 1st and 10th day of the month; and leave the poor entirely in the hands of the overseers, or of the select vestry, for that period. Here is a beginning—a gradual abolition of one of the first features of the poor-laws. And it is without risk of tumult; for no one will run the risk of breaking the laws for an evil to which he anticipates so speedy a termination. This Decameron of overseers' despotism, and paupers' suffering, is the very thing wanted. It will teach the parishes to administer their own charity responsibly, and to depend upon their own judgment. It will teach the poor the miseries of pauperism and dependence; and will be a warning to unmarried young men not hastily and rashly to place themselves, their wives and children, in the same miserable situation; and it will effect all these objects gradually, and without danger. It would of course be the same thing on principle, if relief were confined to three days between the 1st and the 10th of each month; three between the 10th and the 20th: three between the 20th and the end of the month;—or in any other manner that would gradually* crumble away the power, and check the gratuitous munificence of justices,—give authority over their

* All gradation and caution have been banished since the reform bill—rapid high-pressure wisdom is the only agent in public affairs.

own affairs to the heads of the parish, and teach the poor, by little and little, that they must suffer if they are imprudent. It is understood in all these observations, that the overseers are bound to support their poor without any order of justices; and that death arising from absolute want should expose those officers to very severe punishments, if it could be traced to their inhumanity and neglect. The time must come when we must do without this; but we are not got so far yet—and are at present only getting rid of justices, not of overseers.

Mr. Davison seems to think that the plea of old age stands upon a different footing, with respect to the poor-laws, from all other pleas. But why should this plea be more favoured than that of sickness? why more than losses in trade, incurred by no imprudence? In reality, this plea is less entitled to indulgence. Every man knows he is exposed to the helplessness of age; but sickness and sudden ruin are very often escaped—comparatively seldom happen. Why is a man exclusively to be protected against that evil which he must have foreseen longer than any other, and has had the longest time to guard against? Mr. Davison's objections to a limited expenditure are much more satisfactory. These we shall lay before our readers; and we recommend them to the attention of the committee.

'I shall advert next to the plan of a limitation upon the amount of rates to be assessed in future. This limitation, as it is a pledge of some protection to the property now subjected to the maintenance of the poor against the indefinite encroachment which otherwise threatens it, is, in that light, certainly a benefit; and supposing it were rigorously adhered to, the very knowledge, among the parish expectants, that there was some limit to their range of expectation, some barrier which they could not pass, might incline them to turn their thoughts homeward again to the care of themselves. But it is an expedient, at the best, far from being satisfactory. In the first place, there is much reason to fear that such a limitation would not eventually be maintained, after the example of a similar one having failed before, and considering that the urgency of the applicants as long as they retain the principle of dependence upon the parish unqualified in any one of its main articles, would probably overbear a mere barrier of figures in the parish account. Then there would be much real difficulty in the proceedings, to be governed by such a limiting rule. For the use of the limitation would be chiefly, or solely, in cases where there is some struggle between the ordinary supplies of the parish rates, and the exigencies of the poor, or a kind of run and pressure upon the parish by a mass of indigence: and in circumstances of this kind, it would be hard to know how to distribute the supplies

under a fair proportion to the applicants, known or expected; hard to know how much might be granted for the present, and how much should be kept in reserve for the remainder of the year's service. The real intricacy in such a distribution of account would show itself in disproportions and inequalities of allowance, impossible to be avoided; and the applicants would have one pretext more for discontent.

'The limitation itself in many places would be only in words and figures. It would be set, I presume, by an average of certain preceding years. But the average taken upon the preceding years might be a sum exceeding in its real value the highest amount of the assessments of any of the averaged years, under the great change which has taken place in the value of money itself. A given rate, or assessment nominally the same, or lower, might in this way be a greater real money value than it was some time before. In many of the most distressed districts, where the parochial rates have nearly equalled the rents, a nominal average would, therefore, be no effectual benefit; and yet it is in those districts that the alleviation of the burthen is the most wanted.

'It is manifest, also, that a peremptory restriction of the whole amount of money applicable to the parochial service, though abundantly justified in many districts by their particular condition being so impoverished as to make the measure, for them, almost a measure of necessity, if nothing can be substituted for it; and where the same extreme necessity does not exist, still justified by the prudence of preventing in some way the interminable increase of the parochial burthens; still, that such a restriction is an ill-adjusted measure in itself, and would, in many instances, operate very inequitably. It would fall unfairly in some parishes, where the relative state of the poor and the parish might render an increase of the relief as just and reasonable as it is possible for any thing to be under the poor-laws at all. It would deny to many possible fair claimants the whole, or a part, of that degree of relief commonly granted elsewhere to persons in their condition, on this or that account of claim. Leaving the reason of the present demands wholly unimpeached, and unexplained; directing no distinct warning or remonstrance to the parties, in the line of their affairs, by putting a check to their expectations upon positive matters implicated in their conduct; which would be speaking to them in a definite sense, and a sense applicable to all: this plan of limitation would nurture the whole mass of the claim in its origin, and deny the allowance of it to thousands, on account of reasons properly affecting a distant quarter, of which they know nothing. The want of a clear method, and of a good principle at the bottom of it, in this direct compulsory restriction, renders it, I think, wholly unacceptable, unless it be the only possible plan that can be devised for accomplishing the same end. If a parish had to keep its account with a single dependant, the plan would be much more useful in that case. For the ascertained fact of the total amount of his expectations might set his mind at rest, and put him on a decided course of providing for himself. But, in the limitation proposed to be made, the ascertained fact is of a general

amount only, not of each man's share in it. Consequently, each man has his indefinite expectations left to him, and every separate specific ground of expectation remaining as before.'

Mr. Davison talks of the propriety of refusing to find labour for able labourers after the lapse of ten years, as if it was some ordinary bill he was proposing, unaccompanied by the slightest risk. It is very easy to make such laws, and to propose them; but it would be of immense difficulty to carry them into execution. Done it must be, every body knows that; but the real merit will consist in discovering the gradual and gentle means by which the difficulties of getting parish labour may be increased, and the life of a parish pauper be rendered a life of salutary and deterring hardship. A law that rendered such request for labour perfectly lawful for ten years longer, and then suddenly abolished it, would merely bespeak a certain, general, and violent insurrection for the year 1830. The legislator, thank God, is in his nature a more cunning and gradual animal.

Before we drop Mr. Davison, who writes like a very sensible man, we wish to say a few words about his style. If he would think less about it, he would write much better. It is always as plethoric and full-dressed as if he were writing a treatise *de finibus bonorum et malorum*. He is sometimes obscure; and is occasionally apt to dress up common-sized thoughts in big clothes, and to dwell a little too long in proving what every man of sense knows and admits. We hope we shall not offend Mr. Davison by these remarks; and we have really no intention of doing so. His views upon the poor-laws are, generally speaking, very correct and philosophical; he writes like a gentleman, a scholar, and a man capable of eloquence; and we hope he will be a bishop. If his mitred productions are as enlightened and liberal as this, we are sure he will confer as much honour on the bench as he receives from it. There is a good deal, however, in Mr. Davison's book about the 'virtuous marriages of the poor.' To have really the charge of a family as a husband and a father, we are told,—to have the privilege of laying out his life in their service, is the poor man's boast,—'his home is the school of his sentiments,' &c. &c. This is viewing human life through a Claude Lorraine glass, and decorating it with colours which do not belong to it. A ploughman marries a ploughwoman because she is plump; generally uses her ill; thinks his chil-

dren an incumbrance; very often flogs them; and, for sentiment, has nothing more nearly approaching to it, than the ideas of broiled bacon and mashed potatoes. This is the state of the lower orders of mankind—deplorable, but true—and yet rendered much worse by the poor-laws.

The system of roundsmen is much complained of; as well as that by which the labour of paupers is paid, partly by the rate, partly by the master—and a long string of Sussex justices send up a petition on the subject. But the evil we are suffering under is an excess of population. There are ten men applying for work, when five only are wanted; of course, such a redundance of labouring persons must depress the rate of their labour far beyond what is sufficient for the support of their families. And how is that deficiency to be made up but from the parish rates, unless it is meant suddenly and immediately to abolish the whole system of the poor-laws? To state that the rate of labour is lower than a man can live by, is merely to state that we *have had*, and *have*, poor-laws—of which this practice is at length the inevitable consequence; and nothing could be more absurd than to attempt to prevent, by acts of Parliament, the natural depreciation of an article which exists in much greater abundance than it is wanted. Nor can any thing be more unjust than the complaint, that roundsmen are paid by their employers at an inferior rate, and that the difference is made up by the parish funds. A roundsman is commonly an inferior description of labourer who cannot get regularly hired;—he comes upon his parish for labour commonly at those seasons when there is the least to do;—he is not a servant of the farmer's choice, and probably does not suit him;—he goes off to any other labour at a moment's warning, when he finds it more profitable;—and the farmer is forced to keep nearly the same number of labourers as if there were no roundsmen at all. Is it just, then, that a labourer, combining every species of imperfection, should receive the same wages as a chosen, regular, stationary person, who is always ready at hand, and whom the farmer has selected for his dexterity and character?

Those persons who do not, and cannot employ labourers, have no kind of right to complain of the third or fourth part of the wages being paid by the rates; for if the farmers did not agree among themselves to take such occasional labourers, the whole of their support must be paid by the rates, instead

of one-third. The order is, that the pauper shall be paid such a sum as will support himself and family; and if this agreement to take roundsmen was not entered into by the farmers, they must be paid, by the rates, the whole of the amount of the order, for doing nothing. If a circulating labourer, therefore, with three children, to whom the justices would order 12*s.* per week, receives 8*s.* from his employer, and 4*s.* from the rates, the parish is not burdened by this system to the amount of 4*s.*, but relieved to the amount of 8*s.* A parish manufacture, conducted by overseers, is infinitely more burdensome to the rates than any system of roundsmen. There are undoubtedly a few instances to the contrary. Zeal and talents will cure the original defects of any system; but to suppose that average men can do what extraordinary men have done, is the cause of many silly projects and extravagant blunders. Mr. Owen may give his whole heart and soul to the improvement of one of his parochial parallelograms; but who is to succeed to Mr. Owen's enthusiasm? Before we have quite done with the subject of roundsmen, we cannot help noticing a strange assertion of Mr. Nicol, that the low rate of wages paid by the master is an injustice to the pauper—that he is cheated, forsooth, out of 8*s.* or 10*s.* per week by this arrangement. Nothing, however, can possibly be more absurd than such an allegation. The whole country is open to him. Can he gain more anywhere else? If not, this is the market price of his labour; and what right has he to complain? or how can he say he is defrauded? A combination among farmers to lower the price of labour would be impossible, if labour did not exist in much greater quantities than was wanted. All such things, whether labour, or worsted stocking, or broadcloth, are, of course, always regulated by the proportion between the supply and demand. Mr. Nicol cites an instance of a parish in Suffolk, where the labourer receives sixpence from the farmers, and the rest is made up by the rates; and for this he reprobates the conduct of the farmers. But why are they not to take labour as cheap as they can get it? Why are they not to avail themselves of the market price of this, as of any other commodity? The rates are a separate consideration; let them supply what is wanting; but the farmer is right to get his iron, his wood, and his labour, as cheap as he can. It would, we admit, come nearly to the same thing, if 100*l.* were paid in wages rather than 25*l.* in wages, and 75*l.* by rate; but then,

if the farmers were to agree to give wages above the market price, and sufficient for the support of the labourers without any rate, such an agreement could never be adhered to. The base and the crafty would make their labourers take less, and fling heavier rates upon those who adhered to the contract; whereas, the agreement, founded upon giving as little as can be given, is pretty sure of being adhered to; and he who breaks it, lessens the rate to his neighbour, and does not increase it. The problem to be solved is this: If you have ten or twenty labourers who say they can get no work, and you cannot dispute this, and the poor-laws remain, what better scheme can be devised, than that the farmers of the parish should employ them in their turns?—and what more absurd than to suppose that farmers so employing them should give one farthing more than the market price for their labour?

It is contended, that the statute of Elizabeth, rightly interpreted, only compels the overseer to assist the sick and old, and not to find labour for strong and healthy men. This is true enough; and it would have been eminently useful to have attended to it a century past: but to find employment for all who apply, is now, by long use, become a practical part of the poor-laws, and will require the same care and dexterity for its abolition as any other part of that pernicious system. It would not be altogether prudent suddenly to tell a million of stout men, with spades and hoes in their hands, that the 43d of Elizabeth had been misconstrued, and that no more employment would be found for them. It requires twenty or thirty years to state such truths to such numbers.

We think, then, that the diminution of the claims of settlement, and of the authority of justices, coupled with the other subordinate improvements we have stated, will be the best steps for beginning the abolition of the poor-laws. When these have been taken, the description of persons entitled to relief may be narrowed by degrees. But let no man hope to get rid of these laws, even in the gentlest and wisest method, without a great deal of misery, and some risk of tumult. If Mr. Bourne thinks only of avoiding risk, he will do nothing. Some risk must be incurred: but the secret is gradation; and the true reason for abolishing these laws is, not that they make the rich poor, but that they make the poor poorer.*

* The boldness of modern legislation has thrown all my caution into the background. Was it wise to encounter such a risk? Is the danger over? Can the vital parts of the bill be maintained?

ANASTASIUS. (Edinburgh Review, 1821.)

Anastasius; or, Memoirs of a Greek, written in the 18th Century. London. Murray. 3 vols. 8vo.

Anastasius is a sort of oriental Gil Blas, who is tossed about from one state of life to another,—sometimes a beggar in the streets of Constantinople, and, at others, an officer of the highest distinction under an Egyptian Bey,—with that mixture of good and evil, of loose principles and popular qualities, which, against our moral feelings and better judgment, render a novel pleasing, and an hero popular. Anastasius is a greater villain than Gil Blas, merely because he acts in a worse country, and under a worse government. Turkey is a country in the last stage of *Castlereagh-ery* and *Vansittartism;* it is in that condition to which we are steadily approaching—a political *finish;*—the sure result of just and necessary wars, interminable burthens upon affectionate people, green bags, strangled sultanas, and murdered mobs. There are, in the world, all shades and gradations of tyranny. The Turkish, or last, puts the pistol and stiletto in action. Anastasius, therefore, among his other pranks, makes nothing of two or three murders; but they are committed in character, and are suitable enough to the temper and disposition of a lawless Turkish soldier; and this is the justification of the book, which is called wicked but for no other reason than because it accurately paints the manners of a people become wicked from the long and uncorrected abuses of their government.

One cardinal fault which pervades this work is, that it is too long;—in spite of the numerous fine passages with which it abounds, there is too much of it;—and it is a relief, not a disappointment, to get to the end. Mr. Hope, too, should avoid humour, in which he certainly does not excel. His attempts of that nature are among the most serious parts of the book. With all these objections, (and we only mention them in case Mr. Hope writes again,) there are few books in the English language which contain passages of greater power, feeling and eloquence

than this novel,—which delineate frailty and vice with more energy and acuteness, or describe historical scenes with such bold imagery, and such glowing language. Mr. Hope will excuse us,—but we could not help exclaiming, in reading it, Is this Mr. Thomas Hope?—Is this the man of chairs and tables—the gentleman of sphinxes—the Œdipus of coal-boxes—he who meditated on muffineers and planned pokers?—Where has he hidden all this eloquence and poetry up to this hour?—How is it that he has, all of a sudden, burst out into descriptions which would not disgrace the pen of Tacitus—and displayed a depth of feeling and a vigour of imagination which Lord Byron could not excel? We do not shrink from one syllable of this eulogium. The work now before us places him at once in the highest list of eloquent writers, and of superior men.

Anastasius, the hero of the tale, is a native of Chios, the son of the drogueman to the French consul. The drogueman, instead of bringing him up to make Latin verses, suffered him to run wild about the streets of Chios, where he lives for some time a lubberly boy, and then a profligate youth. His first exploit is to debauch the daughter of his acquaintance, from whom (leaving her in a state of pregnancy), he runs away, and enters as a cabin boy in a Venetian brig. The brig is taken by Maynote pirates: the pirates by a Turkish frigate, by which he is landed at Nauplia, and marched away to Argos, where the captain, Hassan Pacha, was encamped with his army.

'I had never seen an encampment: and the novel and striking sight absorbed all my faculties in astonishment and awe. There seemed to me to be forces sufficient to subdue the whole world; and I knew not which most to admire, the endless clusters of tents, the enormous piles of armour, and the rows of threatening canon, which I met at every step, or the troops of well mounted spahees, who, like dazzling meteors, darted by us on every side, amid clouds of stifling dust. The very dirt with which the nearer horsemen bespattered our humble troop, was, as I thought, imposing; and every thing upon which I cast my eyes gave me a feeling of nothingness, which made me shrink within myself like a snail in its cell. I envied not only those who were destined to share in all the glory and success of the expedition, but even the meanest follower of the camp, as a being of a superior order to myself; and, when suddenly there arose a loud flourish of trumpets, which, ending a concert of cymbals and other warlike instruments, re-echoed in long peals from all the surrounding mountains, the clang shook every nerve in my body, thrilled me to the very soul, and infused in all my veins a species of martial ardour so resistless, that it made me struggle with my fetters, and try to tear them asunder. Proud as I was by nature, I would have knelt to whoever had offered

to liberate my limbs, and to arm my hands with a sword or a battle-axe.'—(I. 36, 37.)

From his captive state he passes into the service of Mavroyeni, Hassan's drogueman, with whom he ingratiates himself, and becomes a person of consequence. In the service of this person, he receives from old Demo, a brother domestic, the following admirable lecture on masters:—

'"Listen, young man," said he, "whether you like it or not. For my own part, I have always had too much indolence, not to make it my study throughout life rather to secure ease than to labour for distinction. It has, therefore, been my rule to avoid cherishing in my patron any outrageous admiration of my capacity, which would have increased my dependence while it lasted, and expose me to persecution on wearing out:—but you, I see, are of a different mettle: I therefore may point out to you the surest way to that more perilous height, short of which your ambition, I doubt, will not rest satisfied. When you have compassed it, you may remember old Demo, if you please.

'"Know first that all masters, even the least lovable, like to be loved. All wish to be served from affection rather than duty. It flatters their pride, and it gratifies their selfishness. They expect from this personal motive a greater devotion to their interest, and a more unlimited obedience to their commands. A master looks upon mere fidelity in his servant as his due—as a thing scarce worth his thanks: but attachment he considers as a compliment to his merit, and if at all generous, he will reward it with liberality. Mavroyeni is more open than any body to this species of flattery. Spare it not, therefore. If he speak to you kindly, let your face brighten up. If he talk to you of his own affairs, though it should only be to dispel the tedium of conveying all day long other men's thoughts, listen with the greatest eagerness. A single yawn, and you are undone! Yet let not curiosity appear your motive, but the delight only of being honoured with his confidence. The more you appear grateful for the least kindness, the oftener you will receive important favours. Our ostentatious drogueman will feel a pleasure in raising your astonishment. His vanity knows no bounds. Give it scope, therefore. When he comes home choking with its suppressed ebullitions, be their ready and patient receptacle:—do more; discreetly help him on in venting his conceit; provide him with a cue; hint what you heard certain people, not knowing you to be so near, say of his capacity, his merit, and his influence. He wishes to persuade the world that he completely rules the pasha. Tell him not flatly he does, but assume it as a thing of general notoriety. Be neither too candid in your remarks, nor too fulsome in your flattery. Too palpable deviations from fact might appear a satire on your master's understanding. Should some disappointment evidently ruffle his temper, appear not to conceive the possibility of his vanity having received a mortification. Preserve the exact medium between too cold a respect, and too presumptuous a forwardness. However much Mavroyeni may caress you in private, never seem quite at ease with him in pub-

lic. A master still likes to remain master, or, at least, to appear so to others. Should you get into some scrape, wait not to confess your imprudence, until concealment becomes impossible; nor try to excuse the offence. Rather than that you should, by so doing, appear to make light of your guilt, exaggerate your self-upbraidings, and throw yourself entirely upon the drogueman's mercy. On all occasions take care how you appear cleverer than your lord, even in the splitting of a pen; or, if you cannot avoid excelling him in some trifle, give his own tuition all the credit of your proficiency. Many things he will dislike, only because they come not from himself. Vindicate not your innocence when unjustly rebuked: rather submit for the moment; and trust that, though Mavroyeni never will expressly acknowledge his error, he will in due time pay you for your forbearance." '—(I. 43—45.)

In the course of his service with Mavroyeni, he bears arms against the Arnoots, under the Captain Hassan Pacha; and a very animated description is given of his first combat.

'I undressed the dead man completely.—When, however, the business which engaged all my attention was entirely achieved, and that human body, of which, in the eagerness for its spoil, I had only thus far noticed the separate limbs one by one, as I stripped them, all at once struck my sight in its full dimensions, as it lay naked before me; —when I contemplated that fine athletic frame, but a moment before full of life and vigour unto its finger's ends, now rendered an insensible corpse by the random shot of a raw youth whom in close combat its little finger might have crushed, I could not help feeling, mixed with my exultation, a sort of shame, as if for a cowardly advantage obtained over a superior being; and, in order to make a kind of atonement to the shade of an Epirote—of a kinsman—I exclaimed with outstretched hands, "Cursed be the paltry dust which turns the warrior's arm into a mere engine, and striking from afar an invisible blow, carries death no one knows whence to no one knows whom; levels the strong with the weak, the brave with the dastardly; and, enabling the feeblest hand to wield its fatal lightning, makes the conqueror slay without anger, and the conquered die without glory." '—(I. 54, 55.)

The campaign ended, he proceeds to Constantinople with the drogueman, where his many intrigues and debaucheries end with the drogueman's turning him out of doors. He lives for some time at Constantinople in great misery; and is driven, among other expedients, to the trade of quack-doctor.

'One evening, as we were returning from the Blacquernes, an old woman threw herself in our way, and, taking hold of my master's garment, dragged him almost by main force after her into a mean-looking habitation just by, where lay on a couch, apparently at the last gasp, a man of foreign features. "I have brought a physician," said the female to the patient, "who, perhaps, may relieve you." "Why will you"—answered he faintly—"still persist to feed idle hopes! I have lived an outcast: suffer me at least to die in peace; nor disturb my

last moments by vain illusions. My soul pants to rejoin the Supreme Spirit; arrest not its flight; it would only be delaying my eternal bliss!"

'As the stranger spoke these words—which struck even Yacoob sufficiently to make him suspend his professional grimace—the last beams of the setting sun darted across the casement of the window upon his pale yet swarthy features. Thus visited, he seemed for a moment to revive. "I have always," said he, "considered my fate as connected with the great luminary that rules the creation. I have always paid it due worship, and firmly believed I could not breathe my last while its rays shone upon me. Carry, me therefore, out, that I may take my last farewell of the heavenly ruler of my earthly destinies!"

'We all rushed forward to obey the mandate; but the stairs being too narrow, the woman only opened the window, and placed the dying man before it, so as to enjoy the full view of the glorious orb, just in the act of dropping beneath the horizon. He remained a few moments in silent adoration; and mechanically we all joined him in fixing our eyes on the object of his worship. It set in all its splendour; and when its golden disk had entirely disappeared, we looked round at the Parsee. He, too, had sunk into everlasting rest.'—(I. 103, 104.)

From the dispensation of chalk and water, he is then ushured into a Turkish jail, the description of which, and of the plague with which it is visited, are very finely written; and we strongly recommend them to the attention of our readers.

'Every day a capital, fertile in crimes, pours new offenders into this dread receptacle; and its high walls and deep recesses resound every instant with imprecations and curses, uttered in all the various idioms of the Ottoman empire. Deep moans and dismal yells leave not its frightful echoes a moment's repose. From morning till night and from night till morning, the ear is stunned with the clang of chains, which the galley-slaves wear while confined in their cells, and which they still drag about when toiling at their tasks. Linked together two and two for life, should they sink under their sufferings, they still continue unsevered after death; and the man doomed to live on, drags after him the corpse of his dead companion. In no direction can the eye escape the spectacle of atrocious punishments and of indescribable agonies. Here, perhaps, you see a wretch whose stiffened limbs refuse their office, stop suddenly short in the midst of his labour, and as if already impassible, defy the stripes that lay open his flesh, and wait in total immobility the last merciful blow that is to end his misery; while there, you view his companion foaming with rage and madness, turn against his own person his desperate hands, tear his clotted hair, rend his bleeding bosom, and strike his skull, until it burst, against the wall of his dungeon.'—(I. 110, 111.)

A few survived.

'I was among these scanty relics. I who, indifferent to life, had

never stooped to avoid the shafts of death, even when they flew thickest around me, had more than once laid my finger on the livid wound they inflicted, had probed it as it festered; I yet remained unhurt: for sometimes the plague is a magnanimous enemy, and, while it seldom spares the pusillanimous victim, whose blood, running cold ere it is tainted, lacks the energy necessary to repel the infection when at hand, it will pass him by who dares its utmost fury, and advances undaunted to meet its raised dart.'—(I. 121.)

In this miserable receptacle of guilty and unhappy beings, Anastasius forms and cements the strongest friendship with a young Greek, of the name of Anagnosti. On leaving the prison, he vows to make every exertion for the liberation of his friend—vows that are forgotten as soon as he is clear from the prison walls. After being nearly perished with hunger, and after being saved by the charity of an hospital, he gets into an intrigue with a rich Jewess—is detected—pursued—and, to save his life, turns Mussulman. This exploit performed, he suddenly meets his friend Anagnosti—treats him with disdain—and, in a quarrel which ensues between them, stabs him to the heart.

'"Life," says the dying Anagnosti, "has long been bitterness: death is a welcome guest: I rejoin those that love me, and in a better place. Already, methinks, watching my flight, they stretch out their arms from heaven to their dying Anagnosti. Thou,—if there be in thy breast one spark of pity left for him thou once namedst thy brother; for him to whom a holy tie, a sacred vow .... Ah! suffer not the starving hounds in the street .... See a little hallowed earth thrown over my wretched corpse." These words were his last.'—(I. 209.)

The description of the murderer's remorse is among the finest passages in the work.

'From an obscure aisle in the church I beheld the solemn service; saw on the field of death the pale stiff corpse lowered into its narrow cell, and hoping to exhaust sorrow's bitter cup, at night, when all mankind hushed its griefs, went back to my friend's final resting-place, lay down upon his silent grave, and watered with my tears the fresh-raised hollow mound.

'In vain! Nor my tears nor my sorrows could avail. No offerings nor penance could purchase me repose. Wherever I went, the beginning of our friendship and its issue still alike rose in view; the fatal spot of blood still danced before my steps, and the reeking dagger hovered before my aching eyes. In the silent darkness of the night I saw the pale phantom of my friend stalk round my watchful couch, covered with gore and dust: and even during the unavailing riots of the day, I still beheld the spectre rise over the festive board, glare on me with piteous look, and hand me whatever I attempted to

reach. But whatever it presented seemed blasted by its touch. To my wine it gave the taste of blood, and to my bread the rank flavour of death!'—(I. 212, 213.)

We question whether there is in the English language a finer description than this. We request our readers to look at the very beautiful and affecting picture of remorse, pp. 214, 215, vol. i.

Equally good, but in another way, is the description of the opium coffeehouse.

'In this tchartchee might be seen any day a numerous collection of those whom private sorrows have driven to a public exhibition of insanity. There each reeling idiot might take his neighbour by the hand, and say, "Brother, and what ailed thee, to seek so dire a cure?" There did I, with the rest of its familiars, now take my habitual station in my solitary niche, like an insensible motionless idol, sitting with sightless eyeballs staring on vacuity.

'One day, as I lay in less entire absence than usual under the purple vines of the porch, admiring the gold-tipped domes of the majestic Sulimanye, the appearance of an old man with a snow-white beard, reclining on the couch beside me, caught my attention. Half plunged in stupor, he every now and then burst out into a wild laugh, occasioned by the grotesque phantasms which the ample dose of madjoon he had just swallowed was sending up to his brain. I sat contemplating him with mixed curiosity and dismay, when, as if for a moment roused from his torpor, he took me by the hand, and fixing on my countenance his dim vacant eyes, said, in an impressive tone, "Young man, thy days are yet few; take the advice of one who, alas! has counted many. Lose no time; hie thee hence, nor cast behind one lingering look: but if thou hast not the strength, why tarry even here? Thy journey is but half achieved. At once go on to that large mansion before thee. It is thy ultimate destination: and by thus beginning where thou must end at last, thou mayest at least save both thy time and thy money.'—(I. 215, 216.)

Lingering in the streets of Constantinople, Anastasius hears that his mother is dead, and proceeds to claim that heritage which, by the Turkish law in favour of proselytes, had devolved upon him.

'How often,' he exclaims (after seeing his father in the extremity of old age)—'how often does it happen in life, that the most blissful moments of our return to a long left home are those only that just precede the instant of our arrival; those during which the imagination still is allowed to paint in its own unblended colours the promised sweets of our reception! How often, after this glowing picture of the phantasy, does the reality which follows appear cold and dreary! How often do even those who grieved to see us depart, grieve more to see us return! and how often do we ourselves encounter nothing

but sorrow, on again beholding the once happy, joyous promoters of our own hilarity, now mournful, disappointed, and themselves needing what consolation we may bring!'—(I. 239, 240.)

During his visit to Chios, he traces and describes the dying misery of Helena, whom he had deserted, and then debauches her friend Agnes. From thence he sails to Rhodes, the remnants of which produce a great deal of eloquence and admirable description—(pp. 275, 276, vol. i.) From Rhodes he sails to Egypt; and chap. 16 contains a short and very well written history of the origin and progress of the Mameluke government. The flight of Mourad, and the pursuit of this chief in the streets of Cairo,* would be considered as very fine passages in the best histories of antiquity. Our limits prevent us from quoting them. Anastasius then becomes a Mameluke; marries his master's daughter; and is made a kiashef. In the numerous skirmishes into which he falls in his new military life, it falls to his lot to shoot, from an ambush, Assad, his inveterate enemy.

'Assad, though weltering in his blood, was still alive: but already the angel of death flapped his dark wings over the traitor's brow. Hearing footsteps advance, he made an effort to raise his head, probably in hopes of approaching succour: but beholding, but recognizing only me, he felt that no hopes remained, and gave a groan of despair. Life was flowing out so fast, that I had only to stand still—my arms folded in each other,—and with a steadfast eye to watch its departure. One instant I saw my vanquished foe, agitated by a convulsive tremor, open his eyes and dart at me a glance of impotent rage; but soon he averted them again, then gnashed his teeth, clenched his fist, and expired.'—(II. 92.)

We quote this, and such passages as these, to show the great power of description which Mr. Hope possesses. The vindictive man standing with his arms folded, and watching the blood flowing from the wound of his enemy, is very new and very striking.

After the death of his wife, he collects his property, quits Egypt, and visits Mekkah, and acquires the title and prerogatives of an Hadjee. After this he returns to the Turkish capital, renews his acquaintance with Spiridion, the friend of his youth, who in vain labours to reclaim him, and whom he at last drives away, disgusted with the vices and passions of Anastasius. We then find our oriental profligate fighting as

* P. 325, vol. i.

a Turkish captain in Egypt, against his old friends the Mamelukes; and afterwards employed in Wallachia, under his old friend Mavroyeni, against the Russians and Austrians. In this part of the work, we strongly recommend to our readers to look at the Mussulmans in a pastry-cook's shop during the Rhamadam, vol. ii. p. 164; the village of beggars, vol. ii. p. 266; the death of the Hungarian officer, vol. ii. p. 327; and, in the last days of Mavroyeni, vol. ii. p. 356;—not forgetting the walk over a field of battle, vol. ii. p. 252. The character of Mavroyeni is extremely well kept up through the whole of the book; and his decline and death are drawn in a very spirited and masterly manner. The Spiridion part of the novel we are not so much struck with; we entirely approve of Spiridion, and ought to take more interest in him; but we cannot disguise the melancholy truth that he is occasionally a little long and tiresome. The next characters assumed by Anastasius are, a Smyrna debauchee, a robber of the desert, and a Wahabee. After serving some time with these sectaries, he returns to Smyrna,—finds his child missing whom he had left there,—traces the little boy to Egypt,—recovers him,—then loses him by sickness,—and wearied of life, retires to end his days in a cottage in Carinthia. For striking passages in this part of the novel, we refer our readers to the description of the burial-places near Constantinople, vol. iii. 11—13; the account of Djezzar Pacha's retirement to his harem during the revolt,—equal to any thing in Tacitus; and, above all, to the landing of Anastasius with his sick child, and the death of the infant. It is impossible not to see that this last picture is faithfully drawn from a sad and cruel reality. The account of the Wahabees is very interesting, vol. iii. 128; and nothing is more so than the story of Euphrosyne. Anastasius had gained the affections of Euphrosyne, and ruined her reputation; he then wishes to cast her off, and to remove her from his house.

'"Ah no!" now cried Euphrosyne, convulsively clasping my knees, "be not so barbarous! Shut not your own door against her against whom you have barred every once friendly door. Do not deny her whom you have dishonoured the only asylum she has left. If I cannot be your wife, let me be your slave, your drudge. No service however mean, shall I recoil from when you command. At least before you I shall not have to blush. In your eyes I shall not be what I must seem in those of others; I shall not from you incur the contempt which I must expect from my former companions; and my diligence

to execute the lowest offices you may require, will earn for me, not only as a bare alms at your hands, that support which, however scanty, I can elsewhere only receive as an unmerited indulgence. Since I did a few days please your eye, I may still please it a few days longer:—perhaps a few days longer, therefore, I may still wish to live; and when that last blessing, your love, is gone by,—when my cheek, faded with grief, has lost the last attraction that could arrest your favour, then speak, then tell me so, that, burthening you no longer, I may retire—and die!" '—(III. 64, 65.)

Her silent despair, and patient misery, when she finds that she has not only ruined herself with the world, but lost his affections also, have the beauty of the deepest tragedy.

'Nothing but the most unremitting tenderness on my part could in some degree have revived her drooping spirits.—But when, after my excursion, and the act of justice on Sophia, in which it ended, I re-appeared before the still trembling Euphrosyne, she saw too soon that that cordial of the heart must not be expected. One look she cast upon my countenance, as I sat down in silence, sufficed to inform her of my total change of sentiments;—and the responsive look by which it was met, tore for ever from her breast the last seeds of hope and confidence. Like the wounded snail she shrunk within herself, and thenceforth, cloaked in unceasing sadness, never more expanded to the sunshine of joy. With her buoyancy of spirits she seemed even to lose all her quickness of intellect, nay, all her readiness of speech: so that, not only fearing to embark with her in serious conversation, but even finding no response in her mind to lighter topics, I at last began to nauseate her seeming torpor and dulness, and to roam abroad even more frequently than before a partner of my fate remained at home, to count the tedious hours of my absence; while she, poor miserable creature, dreading the sneers of an unfeeling world, passed her time under my roof in dismal and heart-breaking solitude.—Had the most patient endurance of the most intemperate sallies been able to soothe my disappointment and to soften my hardness, Euphrosyne's angelic sweetness must at last have conquered: but, in my jaundiced eye, her resignation only tended to strengthen the conviction of her shame; and I saw in her forbearance nothing but the consequence of her debasement, and the consciousness of her guilt. "Did her heart," thought I, "bear witness to a purity on which my audacity dared first to cast a blemish, she could not remain thus tame, thus spiritless, under such an aggravation of my wrongs; and either she would be the first to quit my merciless roof, or, at least, she would not so fearfully avoid giving me even the most unfounded pretence for denying her its shelter.—She must merit her sufferings, to bear them so meekly!" '—Hence, even when moved to real pity by gentleness so enduring, I seldom relented in my apparent sternness.'—(III. 72—74.)

With this, we end our extracts from Anastasius. We consider it as a work in which great and extraordinary talent is

evinced. It abounds in eloquent and sublime passages,—in sense,—in knowledge of history,—and in knowledge of human character;—but not in wit. It is too long; and if this novel perishes, and is forgotten, it will be solely on that account. If it is the picture of vice, so is Clarissa Harlowe, and so is Tom Jones. There are no sensual and glowing descriptions in Anastasius,—nothing which corrupts the morals by inflaming the imagination of youth; and we are quite certain that every reader ends this novel with a greater disgust at vice, and a more thorough conviction of the necessity of subjugating passion, than he feels from reading either of the celebrated works we have just mentioned. The sum of our eulogium is, that Mr. Hope, without being very successful in his story, or remarkably skilful in the delineation of character, has written a novel, which all clever people of a certain age should read, because it is full of marvellously fine things.

SCARLETT'S POOR BILL. (Edinburgh Review, 1821.)

1. *Letter to James Scarlett, Esq., M. P., on his Bill relating to the Poor-Laws.* By a Surrey Magistrate. London, 1821.
2. *An Address to the Imperial Parliament, upon the Practical Means of gradually Abolishing the Poor-Laws, and Educating the Poor Systematically. Illustrated by an Account of the Colonies of Fredericks-Oord in Holland, and of the Common Mountain in the South of Ireland. With General Observations.* Third Edition. By William Herbert Saunders, Esq. London, 1821.
3. *On Pauperism and the Poor-Laws. With a Supplement.* London, 1821.

We are friendly to the main principle of Mr. Scarlett's bill; but are rather surprised at the unworkmanlike manner in which he has set about it.

To fix a maximum for the poor-rates, we should conceive to be an operation of sufficient difficulty and novelty for any one bill. There was no need to provoke more prejudice, to rouse more hostility, and create more alarm, than such a bill would naturally do. But Mr. Scarlett is a very strong man; and before he works his battering-ram, he chooses to have the wall made of a thickness worthy of his blow—capable of evincing, by the enormity of its ruins, the superfluity of his vigour, and the certainty of his aim. Accordingly, he has introduced into his bill a number of provisions, which have no necessary, and, indeed, no near connection with his great and main object; but which are sure to draw upon his back all the Sir Johns and Sir Thomases in the House of Commons. It may be right, or it may be wrong, that the chargeable poor should be removed; but why introduce such a controverted point into a bill framed for a much more important object, and of itself calculated to produce so much difference of opinion! Mr. Scarlett appears to us to have been not only indiscreet in the introduction of such heterogeneous matter, but very much mistaken in the enactments which that matter contains.

'And be it further enacted, that from and after the passing of this act, it shall not be lawful for any justice of peace or other person to remove, or cause to be removed, any poor person or persons from any parish, township or place, to any other, by reason of such person or persons being chargeable to such parish, township or place, or being unable to maintain him or themselves, or under colour of such person or persons being settled in any other parish, township or place, any law or statute to the contrary notwithstanding: Provided always, that nothing in this act shall in any wise be deemed to alter any law now in force for the punishment of vagrants, or for removing poor persons to Scotland, Ireland, or the Isles of Guernsey, Jersey, and Man.—And be it further enacted, that in all cases where any poor person, at the time of the passing of this act, shall be resident in any parish, township or place, where he is not legally settled, and shall be receiving relief from the overseers, guardians, or directors of the poor of the place of his legal settlement, the said overseers, guardians, or directors, are hereby required to continue such relief, in the same manner, and by the same means, as the same is now administered, until one of his majesty's justices of the peace, in or near the place of residence of such poor person, shall, upon application to him, either by such poor person, or any other person on his behalf, for the continuance thereof, or by the said overseers, guardians, or directors of the poor, paying such relief, for the discharge thereof, certify that the same is no longer necessary.'—(*Bill*, pp. 3, 4.)

Now, here is a gentleman, so thoroughly and so justly sensible of the evils of the poor-laws, that he introduces into the House of Commons a very plain, and very bold measure to restrain them; and yet, in the very same bill, he abrogates the few impediments that remain to universal mendicity. The present law says, 'Before you can turn beggar in the place of your residence, you must have been born there, or you must have rented a farm there, or served an office;' but Mr. Scarlett says, 'You may beg anywhere where you happen to be. I will have no obstacles to your turning beggar; I will give every facility and every allurement to the destruction of your independence.' We are quite confident that the direct tendency of Mr. Scarlett's enactments is to produce these effects. Labourers living in one place, and settled in another, are uniformly the best and most independent characters in the place. Alarmed at the idea of being removed from the situation of their choice, and knowing they have nothing to depend upon but themselves, they are alone exempted from the degrading influence of the poor-laws, and frequently arrive at independence by their exclusion from that baneful privilege which is offered to them by the inconsistent benevolence of this bill.

If some are removed, after long residence in parishes where they are not settled, these examples only insure the beneficial effects of which we have been speaking. Others see them, dread the same fate, quit the mug, and grasp the flail. Our policy, as we have explained in a previous article, is directly the reverse of that of Mr. Scarlett. Considering that a poor man, since Mr. East's bill, if he asks no charity, has a right to live where he pleases, and that a settlement is now nothing more than a beggar's ticket, we would gradually abolish all means of gaining a settlement, but those of birth, parentage, or marriage; and this method would destroy litigation as effectually as the method proposed by Mr. Scarlett.*

Mr. Scarlett's plan, too, we are firmly persuaded, would completely defeat his own intentions; and would inflict a greater injury upon the poor than this very bill, intended to prevent their capricious removal. If his bill had passed, he could not have passed. His post-chaise on the northern circuit would have been impeded by the crowds of houseless villagers, driven from their cottages by landlords rendered merciless by the bill. In the mud—all in the mud (for such cases made and provided) would they have rolled this most excellent counsellor. Instigated by the devil and their own malicious purposes, his wig they would have polluted, and tossed to a thousand winds the parchment bickerings of Doe and Roe. Mr. Scarlett's bill is so powerful a motive to proprietors for the depopulation of a village—for preventing the poor from living where they wish to live,—that nothing but the conviction that such a bill would never be suffered to pass, has prevented those effects from already taking place. Landlords would, in the contemplation of such a bill, pull down all the cottages of persons not belonging to the parish, and eject the tenants; the most vigorous measures would be taken to prevent any one from remaining or coming who was not absolutely necessary to the lord of the soil. At present, cottages are let to any body; because, if they are burthensome to the parish, the tenants can be removed. But the impossibility of doing this would cause the immediate demolition of cottages; prevent the erection of fresh ones where they are really wanted; and chain a poor man for ever to the place of his birth, without the possibility of moving. If every body who passed over

* This has since been done.

Mr. Scarlett's threshold were to gain a settlement for life in his house, he would take good care never to be at home. We all boldly let our friends in, because we know we can easily get them out. So it is with the residence of the poor. Their present power of living where they please, and going where they please, entirely depends upon the possibility of their removal when they become chargeable. If any mistaken friend were to take from them this protection, the whole power and jealousy of property would be turned against their locomotive liberty; they would become *adscripti glebæ*, no more capable of going out of the parish than a tree is of proceeding, with its roots and branches, to a neighbouring wood.

The remedy here proposed for these evils is really one of the most extraordinary we ever remember to have been introduced into any act of Parliament.

'And whereas it may happen, that in several parishes or townships now burdened with the maintenance of the poor settled and residing therein, the owners of lands or inhabitants may, *in order to remove the residence of the labouring poor* from such parishes or places, destroy the cottages and habitations therein, now occupied by the labourers and their families: And whereas, also, it may happen, that certain towns and villages, maintaining their own poor, may, by the residence therein of labourers employed and working in other parishes or townships lying near the said towns and villages, be charged with the burden of maintaining those who do not work, and before the passing of this act were not settled therein; For remedy thereof, be it enacted, by the authority aforesaid, that, in either of the above cases, it shall be lawful for the justices, at any quarter-sessions of the peace held for the county in which such places shall be, upon the complaint of the overseers of the poor of any parish, town or place, that by reason of either of the causes aforesaid, the rates for the relief of the poor of such parish, town, or place, have been materially increased, whilst those of any other parish or place have been diminished, to hear and fully to inquire into the matter of such complaint; and in case they shall be satisfied of the truth thereof, then to make an order upon the overseers of the poor of the parish or township, whose rates have been diminished by the causes aforesaid, to pay to the complainants such sum or sums from time to time, as the said justices shall adjudge reasonable, not exceeding, in any case, together with the existing rates, the amount limited by this act, as a contribution towards the relief of the poor of the parish, town, or place, whose rates have been increased by the causes aforesaid; which order shall continue in force until the same shall be discharged by some future order of sessions, upon the application of the overseers paying the same, and proof that the occasion for it no longer exists: Provided, always, that no such order shall be made, without proof of notice in writing of such intended application, and of the grounds thereof having been served upon the

overseers of the poor of the parish or place, upon whom such order is prayed, fourteen days at the least before the first day of the quarter-sessions, nor unless the justices making such order shall be satisfied that no money has been improperly or unnecessarily expended by the overseers of the poor praying for such order; and that a separate and distinct account has been kept by them of the additional burden which has been thrown upon their rates by the causes alleged.'—(*Bill*, pp. 4, 5.)

Now this clause, we cannot help saying, appears to us to be a receipt for universal and interminable litigation all over England—a perfect law-hurricane—a conversion of all flesh into plaintiffs and defendants. The parish A. has pulled down houses, and burthened the parish B.; B. has demolished to the misery of C.; which has again misbehaved itself in the same manner to the oppression of other letters of the alphabet. All run into parchment, and pant for revenge and exoneration. Though the fact may be certain enough, the causes which gave rise to it may be very uncertain; and assuredly will not be admitted to have been those against which the statute has denounced these penalties. It will be alleged, therefore, that the houses were not pulled down to get rid of the poor, but because they were not worth repair—because they obstructed the squire's view—because rent was not paid. All these motives must go before the sessions, the last resource of legislators—the unhappy quarter-sessions pushed to the extremity of their wit by the plump contradictions of parish perjury.

Another of the many sources of litigation, in this clause, is as follows:—A certain number of workmen live in a parish M., not being settled in it, and not working in it before the passing of this act. After the passing of this act, they become chargeable to M., whose poor-rates are increased. M. is to find out the parishes relieved from the burthen of these men, and to prosecute at the quarter-sessions for relief. But suppose the burthened parish to be in Yorkshire, and the relieved parish in Cornwall, are the quarter-sessions in Yorkshire to make an order of annual payment upon a parish in Cornwall? and Cornwall, in turn, upon Yorkshire? How is the money to be transmitted? What is the easy and cheap remedy, if neglected to be paid? And if all this could be effected, what is it, after all, but the present system of removal rendered ten times more intricate, confused, and expensive! Perhaps Mr. Scarlett means, that the parishes where these men worked, and which may happen to be within the jurisdiction of the

justices, are to be taxed in aid of the parish M., in proportion to the benefit they have received from the labour of men whose distresses they do not relieve. We must have, then, a detailed account of how much a certain carpenter worked in one parish, how much in another; and enter into a species of evidence absolutely interminable. We hope Mr. Scarlett will not be angry with us; we entertain for his abilities and character the highest possible respect; but great lawyers have not leisure for these trifling details. It is very fortunate that a clause so erroneous in its view should be so inaccurate in its construction. If it were easy to comprehend it, and possible to execute it, it would be necessary to repeal it.

The shortest way, however, of mending all this, will be entirely to omit this part of the bill. We earnestly, but with very little hopes of success, exhort Mr. Scarlett not to endanger the really important part of his project, by the introduction of a measure which has little to do with it, and which any quarter-session country squire can do as well or better than himself. The real question introduced by his bill is, whether or not a limit shall be put to the poor-laws; and not only this, but whether their amount shall be gradually diminished. To this better and higher part of the law, we shall now address ourselves.

In this, however, as well as in the former part of his bill, Mr. Scarlett becomes frightened at his own enactments, and repeals himself. Parishes are first to relieve every person actually resident within them. This is no sooner enacted than a provision is introduced to relieve them from this expense, tenfold more burthensome and expensive than the present system of removal. In the same manner, a maximum is very wisely and bravely enacted; and in the following clause is immediately repealed.

'Provided, also, and be it further enacted, that if, by reason of any unusual scarcity of provisions, epidemic disease, or any other cause of a temporary or local nature, it shall be deemed expedient by the overseers of the poor, or other persons having, by virtue of any local act of Parliament, the authority of overseers of the poor of any parish, township, or place, to make any addition to the sum assessed for the relief of the poor, beyond the amount limited by this act, it shall be lawful for the said overseers, or such other persons, to give public notice in the several churches, and other places of worship, within the same parish, township, or place, and if there be no church or chapel within such place, then in the parish church or chapel next

adjoining the same, of the place and time of a general meeting to be held by the inhabitants paying to the relief of the poor within such parish, township, or place, for the purpose of considering the occasion and the amount of the proposed addition; and, if it shall appear to the majority of the persons assembled at such meeting, that such addition shall be necessary, then it shall be lawful to the overseers, or other persons having power to make assessments, to increase the assessment by the additional sum proposed and allowed, at such meeting, and for the justices, by whom such rate is to be allowed, upon due proof upon oath to be made before them, of the resolution of such meeting, and that the same was held after sufficient public notice to allow such rate with the proposed addition, specifying the exact amount thereof, with the reasons for allowing the same, upon the face of the rate.'—(*Bill*, p. 3.)

It would really seem, from these and other qualifying provisions, as if Mr. Scarlett had never reflected upon the consequences of his leading enactments till he had penned them; and that he then set about finding how he could prevent himself from doing what he meant to do. To what purpose enact a maximum, if that maximum may at any time be repealed by the majority of the parishioners? How will the compassion and charity which the poor-laws have set to sleep be awakened, when such a remedy is at hand as the repeal of the maximum by a vote of the parish? Will ardent and amiable men form themselves into voluntary associations to meet any sudden exigency of famine and epidemic disease, when this sleepy and sluggish method of overcoming the evil can be had recourse to? As soon as it becomes *really impossible* to increase the poor fund by law—when there is but little, and there *can* be no more, that little will be administered with the utmost caution; claims will be minutely inspected; idle manhood will not receive the scraps and crumbs which belong to failing old age; distress will make the poor provident and cautious; and all the good expected from the abolition of the poor-laws will begin to appear. But these expectations will be entirely frustrated, and every advantage of Mr. Scarlett's bill destroyed, by this fatal facility of eluding and repealing it.

The danger of insurrection is a circumstance worthy of the most serious consideration, in discussing the propriety of a maximum. Mr. Scarlett's bill is an infallible receipt for tumult and agitation, whenever corn is a little dearer than common. 'Repeal the maximum,' will be the clamour in every village; and woe be to those members of the village vestry who should

oppose the measure. Whether it was really a year of scarcity, and whether it was a proper season for expanding the bounty of the law, would be a question constantly and fiercely agitated between the farmers and the poor. If the maximum is to be quietly submitted to, its repeal must be rendered impossible but to the legislature. 'Burn your ships, Mr. Scarlett. You are doing a wise and necessary thing; don't be afraid of yourself. Respect your own nest. Don't let clause A repeal clause B. Be stout. Take care that the rat lawyers on the treasury bench do not take the oysters out of your bill, and leave you the shell. Do not yield one particle of the wisdom and philosophy of your measure to the country gentlemen of the earth.'

We object to a *maximum* which is not rendered a decreasing maximum. If definite sums were fixed for each village, which they could not exceed, that sum would, in a very few years, become a minimum, and an established claim. If 80*s.* were the sum allotted for a particular hamlet, the poor would very soon come to imagine that they were entitled to that precise sum, and the farmers that they were compelled to give it. Any maximum established should be a decreasing, but a very slowly decreasing maximum,—perhaps it should not decrease at a greater rate than 10*s.* per cent. per annum.

It may be doubtful, also, whether the first bill should aim at repealing more than 20 per cent. of the present amount of the poor-rates. This would be effected in forty years. Long before that time, the good or bad effects of the measure would be fairly estimated; if it is wise that it should proceed, let posterity do the rest. It is by no means necessary to destroy, in one moment, upon paper, a payment which cannot, without violating every principle of justice, and every consideration of safety and humanity, be extinguished in less than two centuries.

It is important for Mr. Scarlett to consider whether he will make the operation of his bill immediate, or interpose two or three years between its enactment and first operation.

We entirely object to the following clause; the whole of which ought to be expunged:—

'And be it further enacted, that it shall not be lawful for any churchwarden, overseer, or guardian of the poor, or any other person having authority to administer relief to the poor, to allow or give, or for any justice of the peace to order, any relief to any person whatsoever, who

shall be married after the passing of this act, for himself, herself, or any part of his or her family, unless such poor person shall be actually, at the time of asking such relief, by reason of age, sickness, or bodily infirmity, unable to obtain a livelihood, and to support his or her family by work: Provided, always, that nothing in this clause contained shall be construed so as to authorize the granting relief, or making any order for relief, in cases where the same was not lawful before the passing of this act.'

Nothing in the whole bill will occasion so much abuse and misrepresentation as this clause. It is upon this that the radicals will first fasten. It will, of course, be explained into a prohibition of marriage to the poor; and will, in fact, create a marked distinction between two classes of paupers, and become a rallying point for insurrection. In fact, it is wholly unnecessary. As the funds for the relief of pauperism decrease, under the operation of a diminishing maximum, the first to whom relief is refused will be the young and the strong; in other words, the most absurd and extravagant consequences of the present poor-laws will be the first cured.

Such, then, is our conception of the bill which ought to be brought into Parliament—a maximum regulated by the greatest amount of poor-rates ever paid, and annually diminishing at the rate of 10*s*. per cent. till they are reduced 20 per cent. of their present value; with such a preamble to the bill as will make it fair and consistent for any future Parliament to continue the reduction. If Mr. Scarlett will bring in a short and simple bill to this effect, and not mingle with it any other parochial improvements, and will persevere in such a bill for two or three years, we believe he will carry it; and we are certain he will confer, by such a measure, a lasting benefit upon his country—and upon none more than upon its labouring poor.

We presume there are very few persons who will imagine such a measure to be deficient in vigour. That the poor-laws should be stopped in their fatal encroachment upon property, and unhappy multiplication of the human species,—and not only this, but that the evil should be put in a state of diminution, would be an improvement of our condition almost beyond hope. The tendency of fears and objections will all lie the other way; and a bill of this nature will not be accused of inertness, but of rashness, cruelty, and innovation. We cannot now enter into the question of the poor-laws, of all others that which has undergone the most frequent and earnest discussion. Our whole reasoning is founded upon the assumption, that no

system of laws was ever so completely calculated to destroy industry, foresight, and economy in the poor; to extinguish compassion in the rich; and, by destroying the balance between the demand for, and supply of, labour, to spread a degraded population over a ruined land. Not to attempt the cure of this evil, would be criminal indolence; not to cure it gradually and compassionately, would be very wicked. To Mr. Scarlett belongs the real merit of introducing the bill. He will forgive us the freedom, perhaps the severity, of some of our remarks. We are sometimes not quite so smooth as we ought to be; but we hold Mr. Scarlett in very high honour and estimation. He is the greatest advocate, perhaps, of his time; and without the slightest symptom of *tail* or *whiskers*—decorations, it is reported, now as characteristic of the English bar as wigs and gowns in days of old—he has never carried his soul to the treasury, and said, What will you give me for this?—he has never sold the warm feelings and honourable motives of his youth and manhood for an annual sum of money and an office—he has never taken a price for public liberty and public happiness—he has never touched the political Aceldama, and signed the devil's bond for cursing to-morrow what he has blessed to-day. Living in the midst of men who have disgraced it, he has cast honour upon his honourable profession; and has sought dignity, not from the ermine and the mace, but from a straight path and a spotless life.

END OF THE SECOND VOLUME.

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